

# Garrett County Board of REALTORS®

GCBR News Briefs – January 1, 2011

## Membership Update

### New REALTOR® Members:

Nancy Beakes – Coldwell Banker Deep Creek Realty

### New Affiliate Members:

### Drops:

Sue Fowler – Coldwell Banker Deep Creek Realty

Melita McCroskey – McCroskey & Associates (Agent and Office)

Rod Berger – Long & Foster Real Estate Inc.

### Transfers:

Dale Carpenter – from Coldwell Banker Deep Creek Realty to Railey Realty

### Office Changes:

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## Government Affairs Report, Paul Durham G.A.D.

### New Board of County Commissioners announces legislative agenda:

The new County Commissioners met with Senator George Edwards and Delegate Wendell Beitzel on December 21 to review several legislative items for possible action in the upcoming General Assembly session in January.

Two items were simple housekeeping bills that would update the language in existing law to reflect to whom tax bills are paid and to make the county code consistent with Maryland law when commissioner vacancies occur.

Other items discussed included the following:

- Local preference for the fire protection code that would eliminate the mandatory requirement for sprinkler systems in modular homes.
- Request local authority to enact a noise and nuisance ordinance
- Request local authority to establish wind turbine setback and decommissioning requirements
- Request the General Assembly to repeal the law that removed Public Service Commission control for wind generation projects under 70 MW
- Amend the current law to allow all Deep Creek Lake dock fees be retained by the county
- Amend the current law to mandate a percentage of the Bay restoration Fee (the “flush tax”) be retained by Garrett County for environmental improvements at Deep Creek Lake

GCBR will be following any bills that are submitted and may take a position as the need occurs.



### **County Commissioners refer viewshed protection issue back to the Planning Commission:**

When the county's most recent Comprehensive Plan was originally drafted, the Planning Commission included language recommending measures to address ridgeline protection. For the most part, this was in response to the then relatively new industrial wind turbine issue. The prior Board of County Commissioners deleted that language before approving the final plan.

The new Board of Commissioners voted unanimously at its December 21 meeting to refer the matter back to the Planning Commission for reconsideration, and is asking them for a recommendation on amending the plan to incorporate the original language. The language was included in the original draft Chapter 7 of the plan dealing with sensitive areas.

GCBR will be following this matter and will provide periodic updates to members. If you would like a copy of the original draft plan language, please contact GAD Paul Durham by email for a copy. [pdurham@cebridge.net](mailto:pdurham@cebridge.net)

### **GCBR Board of Directors endorses performance zoning to address the negative effects of industrial growth in the county:**

At its December meeting, the GCBR Board of Directors acted positively on a recommendation from the Government Affairs Committee to endorse the implementation of Performance Zoning throughout the county.

For several years, the Garrett County Board of REALTORS® has closely monitored a number of controversial land use issues in the county. These include the ongoing issue of commercial wind turbines and, most recently, Marcellus shale gas leasing and pipeline development. We have also seen prior interest by our elected officials for a coal fired power plant and a wind turbine manufacturing facility in the county.

Until now, GCBR has refrained from recommending any additional local regulatory codes and has supported the county's previous efforts to seek enabling legislation to regulate the negative aspects of these issues. However, as was the case with commercial wind turbine setback and decommissioning standards, relying on the legislature to grant us specific authority has proven ineffective. Garrett County faces strong forces in the legislature, the administration, and from lobbyists who do not want certain industries regulated.

The approach that we recommend is that the county focus not so much on what uses are appropriate, or not, in a given zoning district. Instead, they should focus on developing performance standards for those uses that have the most impact on property values and the enjoyment of neighboring properties. This approach allows the county to balance the protection of property rights, and the enjoyment of property, with the real and pressing need to regulate the adverse effects of industrial development.

GCBR President Larry Smith and GAD Paul Durham have initiated discussions with the new County Commissioners, Planning and Land Development Director John Nelson, and Planning Commission members about this issue. We anticipate the matter to come up at the January 5 Planning Commission meeting.

### **MAR Legislative Day Scheduled for January 24:**

GCBR will once again be represented at the legislative reception held annually in Annapolis. The reception provides MAR staff and Board and Association leadership the opportunity to meet with

our legislative reps and discuss any bills and issues of concern. Any REALTOR may attend the reception. If you are interested in this event, please contact Sheryl Bergman at MAR at [sheryl.bergman@mdrealtor.org](mailto:sheryl.bergman@mdrealtor.org)

## Garrett County, MD Marcellus Shale Natural Gas Information

Please check out the resources at the Extension Service's new website (more are added each week):

<http://MarcellusShale.GarrettCounty.org>

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### Environmental Research on Natural Gas Production

***Daniel J. Soeder, U.S. Department of Energy***

**Thursday, January 6, 2011**

**7:00 pm at Compton Science Center, Frostburg State University**

The Savage River Watershed Association and the Frostburg Student Chapter of the Wildlife Society will host a special educational program concerning Marcellus Shale at the Compton Science Center, Frostburg State University, on Thursday, January 6 at 7:00 pm. The guest speaker will be Daniel J. Soeder, U.S. Department of Energy, National Energy Technology Laboratory. Citizens, government officials and elected representatives from western Maryland and the surrounding region are encouraged to attend.

The National Energy Technology Laboratory of the U.S. Department of Energy is performing environmental research on the Marcellus Shale and other shale gas resources. The goals of the environmental research are to collect rigorous data on the potential impacts of shale gas drilling and production on water resources, air quality, and ecosystems. Sources of drilling-related environmental impacts may include air emissions, land use changes, habitat fragmentation, ecological degradation, solids disposal, and possible contamination of surface streams and groundwater from improper disposal of produced water or flowback fluids. Dan Soeder is well known as the co-author of an important U.S. Geological Survey fact sheet titled "Water Resources and Natural Gas Production from the Marcellus Shale". This report is available online at <http://md.water.usgs.gov/publications/fs-2009-3032/fs-2009-3032.pdf>

For more information about this program, please contact Laura Haynes, SRWA Director, at 301-689-7156 or [srwadirector@gmail.com](mailto:srwadirector@gmail.com).

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## Upcoming Educational Programs:

Provided by [University of Maryland Extension](#)



### Dormant Mineral Interests Act

**Cristine Kepple, Janes & Kepple, P.A.**

**Thursday, January 13, 2011**

**7:00 pm at Garrett College Auditorium**

The Maryland Dormant Mineral Interests Act was sponsored by Delegate Wendell Beitzel of District 1A. This act refers to severed mineral rights, which are defined as mineral interests that have been separated from the overlying surface estate. There are two groups of individuals affected by this act. The first is those who own the mineral rights but not the surface rights; the second is those who own the surface rights but not the mineral rights. The act allows the first group to retain their rights despite inactivity and the second group to obtain the rights if unclaimed. Ms. Kepple will explain the details of this act and the steps that must be taken to apply the new rules.

Cristine A. Kepple is a Partner in the law firm of Janes & Kepple, P.A., Oakland, Maryland and practices in the areas of business and corporate law, commercial and residential real estate, estates and estate planning. She is a graduate of Southern Garrett High School, University of Maryland (B.S.) and West Virginia University College of Law (J.D.) and has been in practice for sixteen years. She serves as counsel for businesses and institutions throughout Mountain Maryland. Cristine is the chairperson of the Garrett County Development Corporation and serves on the Marcellus Shale Advisory Committee, Boards of the Garrett County Chamber of Commerce and the Garrett College Foundation. She resides with her husband, Rick Hall, on their farm outside of Oakland.

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For more information about these programs, contact [Mikal Zimmerman](#) at 301-334-6960. [mzimmer8@umd.edu](mailto:mzimmer8@umd.edu)

*University of Maryland Extension programs are open to all citizens without regard to race, color, gender, disability, religion, age, sexual orientation, marital or parental status, or national origin. If you have a financial/disability need that requires special assistance for participation in any of the programs, please contact the Extension Office at 301-334-6960.*

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## 2011 Continuing Education Schedule

Beginning November 1, 2010, there must be a minimum of 10 students registered for classes to be held.

Wed. Jan. 12, 2011 10:00 – 11:30 “Fair Housing” (C) - FULL

Wed. Jan. 26, 2011 9:00 – 12:00 “Contracts” (F)

Wed. Feb. 9, 2011 10:00 – 11:30 “Realtor® Guide to Smooth Settlements” (F)

Wed. Feb. 23, 2011 10:00 – 11:30 “Fair Housing” (C)

Wed. Mar. 16, 2011 9:00 – 12:00 “MD Legal Update” (A)

Wed. Mar. 30, 2011 9:00 – 12:00 “Ethics/Predatory Lending” (D)

Cost: 1.5 hours \$20.00 (Realtor®) \$30.00 (non-Realtor®)

3.0 hours \$30.00 (Realtor®) \$40.00 (non-Realtor®)

Registration flyers will be faxed or emailed upon request.

**As per the Maryland Real Estate Commission, you must be signed in and prepared when the class begins. If you arrive late or leave early, you will not get credit for the class. The Commission accepts no excuses at all.**

Note: There is a \$5.00 charge for any continuing education certificates that have to be reissued.

### **MD Real Estate License Renewal Requirements**

*Required Topics for ALL Licensees*

1. Topic D – Ethics and Predatory Lending – 3 clock hours
2. Topic A – Federal, state or local legislative issues – 3 clock hours
3. Topic C – Fair Housing Law – 1.5 clock hours

*Total Hour Requirements – 15 clock hours*

Effective October 1, 2008 requires licensees to retain documents for 5 years.

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## **SentriLock**

Your SentriCard is a messenger between activity at the lockbox and the website so please remember to update your card after any activity at a lockbox such as showings, etc.

**A reminder of the penalties for misuse of the SentriLock System:**

### **Section III Fines and Penalties**

An authorized subscriber or user of the lock Box System of GCBR who violates any rules and regulations of GCBR as set forth above, except for the payment of fees, shall be subject to the imposition of a fine or penalty for each violation in such amount not to exceed \$5,000 as established by the Board of Directors of GCBR from time to time, in accordance with the attached schedule of fines and penalties.

An authorized subscriber or user of the Lock Box System of GCBR, who is found to have violated the rules and regulations as herein set forth on more than two occasions during a calendar year, shall be subject to the automatic revocation of their rights and privileges to access and use the services of GCBR.

An authorized subscriber or user of the Lock Box System of GCBR shall pay 10% late charge on all fees, charges, fines, recurring user fees and penalties which remain unpaid for ten (10) calendar days from the date of the invoice or imposition of such fine or penalty. Service will be terminated without notice for fees, charges, fines, recurring user fees and penalties which remain unpaid for fifteen (15) calendar days from the date of invoice or imposition of such fine or penalty.

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### **SCHEDULE OF FINES AND PENALTIES**

In accordance with the Rules and Regulations of Garrett County Board of REALTORS®, Inc., fines and penalties have been established to safeguard the integrity of the GCBR KeyBox system.

#### **Unauthorized Use of SmartCard (i.e. “loaning of SmartCard”)**

First Offense	Up to \$1000.00
Second Offense	Up to \$5000.00
Third Offense	Termination of Service

Unless otherwise stated, a 10% late fee shall be charged on all fees, charges, fines, recurring user fees, and penalties which remain unpaid for ten (10) calendar days from the date of the invoice or imposition of such fine or penalty. Service will be terminated without notice for fees, charges, fines, recurring user fees, and penalties which remain unpaid for fifteen (15) calendar days from the date of invoice or imposition of such fine or penalty.

Disclaimer: The Board of Directors of Garrett County Board of REALTORS®, Inc. reserves the right in its sole discretion to amend the Schedule of Fees, Charges, Fines, and Penalties from time to time prior written notice to any authorized subscriber or user.

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# Maryland Association of REALTORS®

## FREE WEBINAR

“TAXES”

*Nationally Recognized Presenter: Chris Bird*

**When: Friday, January 7, 2011 at 10:00 A.M. to 11:00 A.M.**

**Where: Your Personal Computer**

This seminar will include the latest in Tax Write-offs for the Self Employed and tax and financial planning tips based on the new tax laws included in the Health Care Bill of 2010. Plus, other major issues that are taking shape in Washington, such as the elimination of the tax benefits of the S Corporation, the new 1099 reporting requirements, current IRS priorities and the status of the Federal Estate Tax will be covered in detail.

**Reserve your Webinar seat now!--Space is limited**

**[CLICK HERE TO REGISTER!](#)**

**For any questions, contact 800-638-6425 or email [Jermaine.hawkins@mdrealtor.org](mailto:Jermaine.hawkins@mdrealtor.org)**

### **System Requirements**

PC-based attendees

Required: Windows® 2000, XP Home, XP Pro, 2003 Server, Vista

Macintosh®-based attendees

Required: Mac OS® X 10.4 (Tiger®) or newer

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## National Association of REALTORS®

The following is a statement by National Association of Realtors® President Ron Phipps.

“As the leading advocate for housing and home ownership issues, NAR firmly believes that the mortgage interest deduction (MID) is vital to the stability of the American housing market and economy.

“The MID must not be targeted for change. NAR is actively engaged on behalf of the nation’s 75 million home owners and 1.1 million Realtors® to ensure that the current deduction is not modified as was recommended in the Deficit Reduction Commission report released today.

“The tax deductibility of interest paid on mortgages is a powerful incentive for home ownership and has been one of the simplest provisions in the federal tax code for more than 80 years. In a new survey commissioned by NAR and conducted online in October 2010 by Harris Interactive of nearly 3,000 homeowners and renters, nearly three-fourths of homeowners and two-thirds of renters said the mortgage interest deduction was extremely or very important to them.

“Recent progress has been made in bringing stability to the housing market and any changes to the MID now or in the future could critically erode home prices and the value of homes by as much as 15 percent, according to our research. This would negatively impact home ownership for millions of Americans, including those who own their homes outright and have no mortgage.

“Any further downward pressure on home prices will hamper the economic recovery, raise foreclosures and hurt banks’ abilities to lend and likely tip the economy into another recession resulting in further job losses for the country. It will effectively close the door on the American dream.

“NAR will remain vigilant in opposing any plan that modifies or excludes the deductibility of mortgage interest.”

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### Case Studies Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM “INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL” OF THE NATIONAL ASSOCIATION OF REALTORS®

#### **Case #1-29: Multiple Offers to be Presented Objectively** (Adopted November, 2002.)

REALTOR® A listed Seller S’s house. He filed the listing with the MLS and conducted advertising intended to interest prospective purchasers. Seller S’s house was priced reasonable and attracted the attention of several potential purchasers.

Buyer B learned about Seller S’s property from REALTOR® A’s Web site, called REALTOR® A for information, and was shown the property by REALTOR® A several times.

Buyer X, looking for property in the area, engaged the services of REALTOR® R as a buyer representative. Seller S’s property was one of several REALTOR® R introduced to Buyer X.

After the third showing, Buyer B was ready to make an offer and requested REALTOR® A’s assistance in writing a purchase offer. REALTOR® A helped Buyer B prepare an offer and then called Seller S to make an appointment to present the offer that evening.

Later that same afternoon, REALTOR® R called REALTOR® A and told him that he was bringing a purchase offer to REALTOR® A’s office for REALTOR® A to present to Seller S. REALTOR® A responded that he would present Buyer X’s offer that evening.

That evening, REALTOR® A presented both offers to Seller S for his consideration. Seller S noted that both offers were for the full price and there seemed to be little difference between them. REALTOR® A responded, “I’m not telling you what to do, but you might consider that I have carefully pre-qualified Buyer B. There’s no question but that she’ll get the mortgage she’ll need to buy your house. Frankly, I don’t know what, if anything, REALTOR® R has done to pre-qualify his client. I hope he’ll be able to get a mortgage, but you never can tell.” REALTOR® A added, “Things can get complicated when a buyer representative gets involved. They make all sorts of demands for their clients and closings can be delayed. You don’t want that do you? Things are almost always simpler when I sell my own listings,” he concluded.

Seller S, agreeing with REALTOR® A’s reasoning, accepted Buyer B’s offer and the transaction closed shortly thereafter.

Upset that his purchase offer hadn’t been accepted, Buyer X called Seller S directly and asked, “Just to satisfy my curiosity, why didn’t you accept my full price offer to buy your house?” Seller S explained that he had accepted another full price offer, had been concerned about Buyer X being able to obtain necessary financing, and had been concerned about delays in closing if a buyer representative were involved in the transaction.

Buyer X shared Seller S’s comments with REALTOR® R the next day. REALTOR® R, in turn, filled an ethics complaint alleging that REALTOR® A’s comments had intentionally cast Buyer X’s offer in an unflattering light, that his comments about buyer representatives hindering the closing process had been inaccurate and unfounded, and that REALTOR® A’s presentation of the offer had been subjective and biased and in violation of Article 1 as interpreted by Standard of Practice 1-6.

At the hearing, REALTOR® A tried to justify his comments, noting that although he had no personal knowledge of Buyer X’s financial wherewithal and while he hadn’t had a bad experience dealing with represented buyers, it was conceivable that an overzealous buyer representative could raise obstacles that might delay a closing. In response to REALTOR® R’s questions, REALTOR® A acknowledged that his comments to Seller S about Buyer X’s ability to obtain financing and the delays that might ensue if a buyer representative were involved were essentially speculation and not based on fact.

The Hearing Panel concluded that REALTOR® A’s comments and overall presentation had not been objective as required by Standard of Practice 1-6 and found REALTOR® A in violation of Article 1.

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Happy New Year!

# Garrett County Board of REALTORS®

GCBR News Briefs – February 1, 2011

## Membership Update

### New REALTOR® Members:

Amy Buser – Coldwell Banker Deep Creek Realty

### New Affiliate Members:

Andrew Orr – 1<sup>st</sup> Mariner Bank

12978 Garrett Highway

Oakland, MD 21550

P: 304-581-4681 F: 888-374-2920

Cell: 703-431-8729

Email: [aorr@1stmarinerbank.com](mailto:aorr@1stmarinerbank.com)

### Drops:

Larry DeBerry – Railey Realty

### Transfers:

### Office Changes:

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## Government Affairs Report, Paul Durham G.A.D.

### GCBR Monitoring Legislative Issues in the General Assembly:

The legislative assembly is in full swing and we are actively monitoring bills on the statewide and local levels. MAR's legislative committee has been meeting to monitor bills with statewide significance. We participate in those meetings by conference call and receive periodic updates on bills and positions.

GCBR members can see the latest online information on legislation through MAR's web site at [http://www.mdrealtor.org/LinkClick.aspx?fileticket=i2MwpHALw\\_0%3d&tabid=544](http://www.mdrealtor.org/LinkClick.aspx?fileticket=i2MwpHALw_0%3d&tabid=544)

Locally, we monitor legislation submitted by our own Delegate Wendell Beitzel and Senator George Edwards, as well as legislation dealing with DNR, energy matters, revenue and taxes. Bills submitted by our local delegation can be accessed on line at...

<http://mlis.state.md.us/2011rs/sponsors/beitzel.htm>

<http://mlis.state.md.us/2011rs/sponsors/edwards.htm>

No additional bills have been requested by the county commissioners. Our GAD Paul Durham stands ready to answer any questions that you might have about any of this legislation.

### **Planning Commission votes to recommend that county plan include ridgeline protection:**

When the county's most recent Comprehensive Plan was originally drafted, the Planning Commission included language recommending measures to address ridgeline protection. For the most part, this was in response to the then relatively new industrial wind turbine issue. The prior Board of County Commissioners deleted that language before approving the final plan.

The new Board of Commissioners voted unanimously at its December 21 meeting to refer the matter back to the Planning Commission for reconsideration, and is asking them for a recommendation on amending the plan to incorporate the original language. The language was included in the original draft Chapter 7 of the plan dealing with sensitive areas.

The Planning Commission met on JAN 5<sup>th</sup> and voted unanimously to have the language put back into the plan and to have newer but conflicting language removed. Their recommendation now goes back to the County Commissioners for action after a state Department of Planning review is completed.

### **FY 2011 Budget Bill (HB 72) Seeks To Take Away Deep Creek Lake Funds from County:**

We have been in communication with Delegate Beitzel and the County Commissioners about a state proposal within the Budget Reconciliation and Financing Act of 2011 (BRFA – HB 72) (available at the following [link](#)).

The provision, located on page 26 of the bill, would eliminate funding provided by the state to Garrett County through the Deep Creek Lake Recreation Maintenance and Management Fund. This fund includes all of the lake permit/dock fees and was created, in part, to cover the tax revenue lost by the county when the State of Maryland purchased Deep Creek Lake from Penn Electric.

A similar but unsuccessful measure was sponsored in 2008 by Delegate Doyle Niemann. This new bill, however, has been submitted as part of an overall budget bill at the request of the Speaker of the House.

Dock fees collected for boat launching at Deep Creek Lake State Park, all funds collected from lake and buffer use permits, and all contracts, gifts, and grants as a result of the Deep Creek Lake management program will still be collected. However, quarterly payments of 25% of the proceeds will no longer be forwarded on to the Commissioners if the bill succeeds.

GCBR's Board of Directors will be discussing this bill on FEB 2<sup>nd</sup>.

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## **2011 Continuing Education Schedule**

**Beginning November 1, 2010, there must be a minimum of 10 students registered for  
classes to be held.**

**Wed. Feb. 9, 2011    10:00 – 11:30 “Realtor® Guide to Smooth Settlements” (F)**

**Wed. Feb. 23, 2011 10:00 – 11:30 “Fair Housing” (C)**

**Wed. Mar. 16, 2011 9:00 – 12:00 “MD Legal Update” (A)**

**Wed. Mar. 30, 2011 9:00 – 12:00 “Ethics/Predatory Lending” (D)**

(The MD Ethics course has also been approved by the GCBR Board of Directors to satisfy the NAR Quadrennial Retraining every member must complete every four years to retain membership in NAR. Completion of this course satisfies two requirements for GCBR members. Current NAR Cycle 3 is 1/1/09 – 12/31/12)

**Wed. Apr. 13, 2011 9:00 – 12:00 “Bankruptcies, Foreclosures/Short Sales” (F)**

**Wed. Apr. 27, 2011 10:00 – 11:30 “Risk Management” (F)**

**Wed. May 11, 2011 9:00 – 12:00 “MREC Agency – Residential” (H)**

(This is the newly required MD Real Estate Commission course that all licensees whose license renew after 01/01/12 must complete for license renewal. The MD REC will only accept renewal certificates in this course by instructors who have completed the instructional course by the MD REC)

**Cost: 1.5 hours \$20.00 (Realtor®)      \$30.00 (non-Realtor®)**  
**3.0 hours \$30.00 (Realtor®)      \$40.00 (non-Realtor®)**

**Registration flyers will be faxed or emailed upon request.**

**As per the Maryland Real Estate Commission, you must be signed in and prepared when the class begins. If you arrive late or leave early, you will not get credit for the class. The Commission accepts no excuses at all.**

**Note: There is a \$5.00 charge for any continuing education certificates that have to be reissued.**

## **MD Real Estate License Renewal Requirements**

### ***Required Topics for ALL Licensees***

1. Topic D – Ethics and Predatory Lending – 3 clock hours
2. Topic A – Federal, state or local legislative issues – 3 clock hours
3. Topic C – Fair Housing Law – 1.5 clock hours

### ***Total Hour Requirements – 15 clock hours***

Effective October 1, 2008 requires licensees to retain documents for 5 years.

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## **MD Real Estate Commission**

### **INCENTIVES AND REBATES**

The Real Estate Commission and the Attorney General's Office receive inquiries from time to time about the payment of rebates to a party to a transaction or the use of incentives to induce a consumer to deal with a particular real estate agent or broker. There are several provisions of the licensing law that address these issues.

**Incentives.** Section 17-322(b)(9) provides that a licensee may not offer a prize or conduct a contest in order to influence a party in the sale of real property. This provision has been interpreted by the Attorney General's Office to mean that if a licensee uses inducements to obtain a listing or a buyer/broker agreement, those inducements must be offered to all consumers on the same basis. There cannot be a contest where a seller or buyer is offered a chance to receive a prize or a cash payment. If an offer is made, it must be available to all.

The law would allow the licensee to offer inducements related to price, that is, the offer could be for a rebate/payment as a percentage of price. In this way, the offer would be the same for all those whose purchase or listing price fell within a certain price range.

**Rebates/Cash Payments.** Section 17-604 provides that a licensee may not pay compensation in any form for the provision of real estate brokerage services to an individual who is not licensed. A person who is simply a party to a real estate transaction is not providing real estate brokerage services within the definitions in Section 17-101, and therefore may receive monies from a licensee. If the monies are used to pay settlement charges, that should be reflected on the HUD-1 form.

The agreement to pay compensation to a buyer in the form of a rebate of commission, or to compensate the seller either through a cash payment or a reduction of the commission rate must be in writing as required by the Code of Ethics, COMAR 09.11.02.01H. (new link) The Real Estate Commission has also taken the position that financial payments by a licensee to a party should be disclosed to the other party to the transaction, even if they are not required to be recorded on the HUD-1 form.

Elizabeth H. Trimble  
Assistant Attorney General  
Counsel to the Commission

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## **Maryland Association of REALTORS®**

**[CLICK HERE](#)** for Tax Write-offs Webinar replay, with Chris Bird.

**Attend the CDA training class for the 2011 Maryland Mortgage Program on Wednesday, February 9, begins at 8:30 a.m. For more information and to register [CLICK HERE](#)**

**FREE WEBINAR—February 4, 2011 (10AM-11AM) “How to Effectively Maximize Social Media” Amy Cherow. [REGISTER NOW](#) Or read link into your smart phone.**

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## **National Association of REALTORS®**

**[REALTORS® FEDERAL CREDIT UNION](#) now offering Individual Retirement Accounts (IRAs). Use promo code: MD11**

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## Case Studies Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM “INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL” OF THE NATIONAL ASSOCIATION OF REALTORS®

### **Case #10-4: Use of “Choose Your Neighbor” Marketing Letters (Adopted November, 1987.)**

REALTOR® A listed a property in a new subdivision. At the instruction of his client, Seller X, REALTOR® A did not file information on the listing with his Board’s MLS, did not place a “For Sale” sign on the property and did not advertise the property in the local newspaper. Seller X had told REALTOR® A that he wanted the sale handled quietly, with the new purchasers being people who would “fit into the neighborhood – people with the same socioeconomic background” as the other residents of the subdivision.

Based on his conversation with Seller X, REALTOR® A’s only marketing effort was mailing a letter to the other residents of the subdivision, inviting them “... to play a part in the decision of who you would like to live in the neighborhood, please let them know of the availability of this home, or call me and I will be happy to contact them and arrange a private showing.”

REALTOR® A’s marketing strategy came to the attention of REALTOR® B, whose mother lived in the subdivision. REALTOR® B filed a complaint charging REALTOR® A with a violation of Article 10 of the Code of Ethics.

At the hearing, REALTOR® B told the Hearing Panel of receiving a copy of the marketing letter from his mother, who had recently moved to the subdivision. REALTOR® B advised the panel that he had checked the Board’s MLS for information on the property, had driven past the house to look for a “For Sale” sign and had scanned the Sunday real estate section of the local newspaper for information on the property. Finding no mention of the property in either the MLS or the newspaper and noting that absence of a sign on the property, REALTOR® B concluded that REALTOR® A’s marketing strategy was to limit access to the property to individuals preselected by the current residents. “In my mind,” said REALTOR® B, “this could only mean one thing. REALTOR® A was deliberately discriminating against home seekers from other areas, or those of different backgrounds, who would never have the opportunity to learn about the house’s availability. Obviously, REALTOR® A was directing all of his marketing energies into finding purchasers who would not disrupt the ethnic and economic character of the neighborhood.”

REALTOR® A defended his actions by advising the panel that he was acting on Seller X’s instructions. Seller X appeared as a witness for REALTOR® A and confirmed the fact, adding that he and the other residents of his block had an informal agreement that they would try to find “suitable” purchasers for their homes if they ever decided to sell. Seller X felt that by broadening the marketing campaign to include all residents of the subdivision he had increased the chances of finding such potential purchasers.

The Hearing Panel found REALTOR® A in violation of Article 10 of the Code of Ethics. In their decision, the panel advised REALTOR® A that no instruction from a client could absolve a REALTOR® from the obligation to market properties without regard to race, color, religion, sex, handicap, familial status, or country of national origin, as expressed in Article 10. There was no doubt, in the panel’s opinion, that the exclusive use of “Choose Your Neighbor” letters to market the property was designed to circumvent the requirements of Article 10.

# Garrett County Board of REALTORS®

GCBR News Briefs – March 1, 2011

## Membership Update

### New REALTOR® Members:

Lisa Gaither – Goodfellow Real Estate Services

### New Affiliate Members:

### Drops:

### Transfers:

John Macy – HHAR, Long & Foster Real Estate Inc. Cumberland office

### Name Changes:

Shelia (Kramer) McCracken - Long & Foster Real Estate Inc.

### Office Changes:

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## Government Affairs Report, Paul Durham G.A.D.

### NAR Pressing Congress for Protection of Federal Mortgage Interest Deduction (MID):

NAR has been diligently working on protecting the Federal Mortgage Interest Deduction (the "MID"). House Resolution 25 calls for a "sense of congress" that the current Federal income tax deduction for interest paid on debt secured by a first or second home should not be further restricted.

Many REALTORS® are working hard to get their members of Congress to sign on to H. Res. 25. The latest NAR tally is that there are up to 41 cosponsors of the resolution!

### GOOD NEWS - As of FEB 10, Congressman Roscoe Bartlett is a cosponsor.

The updated list of cosponsors is available on Thomas at:

<http://thomas.loc.gov/cgi-bin/bdquery/z?d112:H.RES.25:@@@P>

### MAR and GCBR Monitoring Legislative Issues in the General Assembly:

The Maryland legislature is in full swing and we are working with MAR to monitor scores of bills with both local and statewide significance. Board President Larry Smith and GAD Paul Durham participate in weekly conference calls with MAR's legislative committee as they deliberate over the many bills that have an effect on the real estate industry and on home ownership.

**Several bills are being strongly opposed/supported by MAR:**

[HB 177](#) and [SB 160](#) prohibit the installation of an on-site sewage disposal system (i.e. septic system) in the State in the watersheds of the Chesapeake and Atlantic Coastal Bays that serves a newly constructed building or home unless the system utilizes nitrogen removal technology.

MAR is opposing these bills at a -4. Both bills have received their first reading in committee.

[HB 1107](#) would prohibit septic systems in new "large" subdivisions of 5 lots or more, and other restrictions on subdivision of farms and requirements for septic systems in subdivisions of 4 lots or less. If this bill succeeds, it would mean a statewide prohibition on most rural land development which would be devastating to growth and development in Garrett County.

MAR is opposing this bill at a -5, the greatest level of opposition that they use. MAR is working with some other opposition groups and it looks like a coalition will be formed that could generate some REALTOR grass roots efforts. A hearing is scheduled for March 11.

[SB 111](#) and [HB 179](#) require owners or managers of apartment buildings or condominiums that contain 10 or more dwelling units to provide for recycling for residents on or before October 1, 2015. MAR is opposing these bills at a -2.

[SB 234](#) and [HB 357](#) continue the existence of the State Real Estate Commission in accordance with the provisions of the Maryland Program Evaluation Act (sunset law to July 1, 2022. These bills also provide for changes to coverage under the Real Estate Guaranty Fund - increasing the amount that a person may recover for each claim against the Guaranty Fund to \$50,000. MAR is supporting these bills at a strong +4.

**Legislation specific to Garrett County:**

[HB 72](#) and [SB 87](#) are budget bills that include a provision that eliminates funding provided by the state to Garrett County through the Deep Creek Lake Recreation Maintenance and Management Fund. This fund includes all of the lake permit/dock fees and was created, in part, to cover the tax revenue lost by the county when the State of Maryland purchased Deep Creek Lake from Penn Electric. The payment was an integral part of the purchase negotiations between the county and state. The County Commissioners are working with Delegate Beitzel and Senator Edwards to have this provision amended out of the bills.

The bill was discussed by the DCL Policy and Review Board on FEB 7. However, the PRB took no action or position on the matter. Several new PRB members appeared to endorse the bill and viewed the change as providing them with funding to support some projects and programs they had in mind. Some members also discussed their concerns that DNR is utilizing lake management funds for state park expenses, which if true appears to be contrary to the law establishing the fund. GAD Paul Durham provided the PRB with some historical perspective on the issue and the commitments that the state had made to the county when the lake was being acquired by the state.

[SB 253](#) and [HB 201](#) would alter the procedures for filling a vacancy in an office of county commissioner in Garrett County by requiring the Governor to use procedures required for other commission counties, subject to the requirement that in Garrett County the nominee or appointee reside in the same commissioner district in which the former county commissioner resided. This would bring the existing process in line with state law.

[HB 116](#) and [SB 252](#) introduced by Delegate Beitzel and Senator Edwards are still in committee. These bills would grant the County Commissioners authority to establish industrial wind turbine setback and decommissioning standards. Last year GCBR took a position supporting similar legislation and has gone on the same record with this year's bills.

### **GCBR Board Meets With County Commissioners:**

Our Board of Directors had a very productive meeting with the three new county commissioners. The meeting occurred at the board office on Thursday February 17.

Issues discussed included performance zoning and the need for standards on industrial development, the importance of the comprehensive plan, GCBR involvement on economic planning, competition by the county in commercial land development, DNR and lake management, and the overall importance of real estate and the property tax base. There appear to be many areas of common interest between GCBR and the commissioners and the meeting was a fruitful one.

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## **2011 Continuing Education Schedule**

**Beginning November 1, 2010, there must be a minimum of 10 students registered for classes to be held.**

**Wed. Mar. 16, 2011 9:00 – 12:00 “MD Legal Update” (A)**

**Wed. Mar. 30, 2011 9:00 – 12:00 “Ethics/Predatory Lending” (D)**

(The MD Ethics course has also been approved by the GCBR Board of Directors to satisfy the NAR Quadrennial Retraining every member must complete every four years to retain membership in NAR. Completion of this course satisfies two requirements for GCBR members. Current NAR Cycle 3 is 1/1/09 – 12/31/12)

**Wed. Apr. 13, 2011 9:00 – 12:00 “Bankruptcies, Foreclosures/Short Sales” (F)**

**Wed. Apr. 27, 2011 10:00 – 11:30 “Risk Management” (F)**

**Wed. May 11, 2011 9:00 – 12:00 “MREC Agency – Residential” (H)**

(This is the newly required MD Real Estate Commission course that all licensees whose license renew after 01/01/12 must complete for license renewal. The MD REC will only accept renewal certificates in this course by instructors who have completed the instructional course by the MD REC)

<b><u>Cost:</u> 1.5 hours \$20.00 (Realtor®)</b>	<b>\$30.00 (non-Realtor®)</b>
<b>3.0 hours \$30.00 (Realtor®)</b>	<b>\$40.00 (non-Realtor®)</b>

**Registration flyers will be faxed or emailed upon request.**

**As per the Maryland Real Estate Commission, you must be signed in and prepared when the class begins. If you arrive late or leave early, you will not get credit for the class. The Commission accepts no excuses at all.**

Note: There is a \$5.00 charge for any continuing education certificates that have to be reissued.

## **MD Real Estate License Renewal Requirements**

### ***Required Topics for ALL Licensees***

1. Topic D – Ethics and Predatory Lending – 3 clock hours
2. Topic A – Federal, state or local legislative issues – 3 clock hours
3. Topic C – Fair Housing Law – 1.5 clock hours

### ***Total Hour Requirements – 15 clock hours***

Effective October 1, 2008 requires licensees to retain documents for 5 years.

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## **MD Real Estate Commission**

In the near future, the Maryland Real Estate Commission Continuing Education Providers will be required to upload records of attendance and/or completion of CE classes directly to the MD REC database.

Their number one priority is to ensure that all licensees complete their required Continuing Education classes prior to attempting to renew. The new system will immediately check the education history of the licensee when he/she attempts to renew. If the requirements are not met, they will not be able to renew their license.

The second facet is to provide a web site where the licensee can login and check their CE Balance and determine what courses they need in order to renew.

**Make sure you keep CE hours up as needed!**

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## **Maryland Association of REALTORS®**

**IMPORTANT READ [FHA 90-DAY FLIP RULE IS WAIVED UNTIL December 31, 2011](#)**

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## **National Association of REALTORS®**

**REALTOR® Content Resource**

**The REALTOR® Content Resource is now members' gateway to win great prizes in the REALTOR® Build-Your-Business Sweepstakes.**

**Key contest details:**

- **To enter, NAR members log in to the REALTOR® Content Resource and complete the sweepstakes form**
- **Members can enter the sweepstakes daily to increase their chances of winning**
- **Entrants are eligible to win a monthly drawing for an iPad and a weekly drawing for a \$150 Visa gift card**
- **Sweepstakes ends April 30, 2011, so time is running out!**

**Need help? Call NAR Information Central at 800-874-6500**

**Members log in today at [www.HouseLogic.com/members](http://www.HouseLogic.com/members)**

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### **Case Studies Interpretation of the Code of Ethics**

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

#### **Case #12-26: Advertising Role in Sales After Changing Firm Affiliation (Adopted May, 2010)**

REALTOR® P was a non-principle broker licensed with XYZ, REALTORS® whose forte was listing residential property. Noted prominently on REALTOR® P's website was the banner: "Sold by REALTOR® P!" Under that banner were addresses of nearly a hundred properties REALTOR® P had listed, and which had been sold either through REALTOR® P's efforts or through the efforts of cooperating brokers.

Seeking new opportunities, REALTOR® P ended his relationship with XYZ and affiliated with ABC, REALTORS®. REALTOR® P promptly revised the information on his website to prominently display the name of his new firm in a readily apparent manner. He also continued to display the lengthy list of properties that he had listed, and which had sold, while REALTOR® P was affiliated with XYZ.

His departure from XYZ had been on good terms, so REALTOR® P was taken aback to receive a complaint brought by his former principle broker, REALTOR® D, alleging that REALTOR® P's website display of sold listings violated Article 12, as interpreted by Standard of Practice 12-7.

At the hearing, the complainant noted that Standard of Practice 12-7 provides, in relevant part, "Only REALTORS® who participated in the transaction as a listing broker or cooperating broker (selling broker) may claim to have 'sold' the property." "It was XYZ, REALTORS®," REALTOR® D added, "that was the listing broker in these transactions, not our former sales associate, REALTOR® P. His advertising of our listings and sales under the banner of his new firm ABC, REALTORS®, is unauthorized and misleading to consumers who will get the impression that ABC was involved in these transactions when that it is simply not true."

REALTOR® P defended himself and his website pointing out that he had listed each of the properties displayed on his website, and the only thing that had changed was his firm affiliation. He directed the

hearing panel's attention to the disclaimer at the end of the list of properties that read, "Each of these properties was listed by REALTOR® P over the past seven years. For much of that time, I was affiliated with another firm.

The hearing panel agreed with REALTOR® P's defense, noting that consumers would understand that some of the sales had occurred while REALTOR® P was affiliated with a different firm. Consequently, REALTOR® P was found not in violation of Article 12.

**Think Spring!**

# Garrett County Board of REALTORS®

## GCBR News Briefs – April 1, 2011

### Membership Update

#### **New REALTOR® Members:**

Cynthia Wolf – Goodfellow Real Estate Services

#### **New Affiliate Members:**

#### **Drops:**

#### **Transfers:**

#### **Name Changes:**

Dennis Murray office name changed to Dennis Murray's Home Inspections

#### **Office Changes:**

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### Government Affairs Report, Paul Durham G.A.D.

#### **Information About NAR's Political Survival Initiative:**

You may have heard about NAR's new Political Survival Initiative and the proposed dues increase associated with it. In order to gain a better understanding of the program, NAR has developed a fact sheet for members which can be found on the internet at ...

[http://www.realtor.org/topics\\_secured/political\\_survival\\_initiative/ae](http://www.realtor.org/topics_secured/political_survival_initiative/ae)

NAR is developing this initiative as part of strategic planning that is focused on political advocacy. NAR hopes to keep REALTOR advocacy groups one of the most powerful in the country. Note that there will be a dedicated dues increase to help fund it, with a portion of the funding to be made available to state and local boards and associations.

#### **Planning Commission to Take Action on Amendments to Comprehensive Plan for Ridgeline Protection on April 6th:**

When the county's most recent Comprehensive Plan (2008) was originally drafted, the Planning Commission included language recommending measures to address ridgeline protection. This was in response to the then relatively new industrial wind turbine issue in the county. The language was deleted by the previous Board of County Commissioners.

The Planning Commission has scheduled a vote on April 6 to re-insert the language back into the plan. If the motion passes, the recommendation will be forwarded to the Board of County Commissioners for action.

The amendments can be viewed online at the county's web site at:

[http://garrettcounty.org/PlanningLand/PlanningZoning/documents/Changes\\_to\\_Comp\\_Plan.pdf](http://garrettcounty.org/PlanningLand/PlanningZoning/documents/Changes_to_Comp_Plan.pdf)

## **Latest Status on Bills of Interest in the General Assembly:**

Bill status reflects information provided by the General Assembly on March 31, 2011

### **(Bills of Local Interest)**

**HB116** – (Delegate Beitzel) Granting the County Commissioners certain authority to regulate commercial wind turbines, etc. – **Unfavorable Report in Environmental Matters Committee**

**SB252** – (Senator Edwards) Companion bill to HB116 – **still in Senate Finance Committee**

*Note – failure in the legislature on these bills may now force local action on the question of county-wide zoning.*

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**SB314** – (Senator Edwards) Repealing a provision that exempts a specified person from having to obtain a certificate of public convenience and necessity for a generating station that produces electricity from wind under specified circumstances; repealing a provision that requires a person to obtain approval from the Public Service Commission prior to any construction of a generating station that produces electricity from wind under specified circumstances; etc – **still in Senate Finance Committee**

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**HB411** – (Delegate Beitzel) Requiring, by December 31, 2011, the Department of the Environment to submit regulations to the Joint Committee on Administrative, Executive, and Legislative Review regarding natural gas exploration and production in the Marcellus Shale formation, including specified requirements, etc. - **Unfavorable Report in Environmental Matters Committee**

**SB422-** (Senator Edwards) Companion bill to HB411 - **Unfavorable Report by Education Health and Environmental Affairs**

*Note – legislative attention is instead on HB852 and SB634 (see below)*

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**HB852** – (Delegate Mizeur, et al) Prohibiting the Department of the Environment from issuing permits for the drilling of wells in the Marcellus Shale until specified conditions are met; requiring the Department to consult with the governing body of specified local governments in evaluating specified permits for the drilling of wells in the Marcellus Shale; etc. – **Passed with amendments**

**SB634** – Companion bill to HB852 – **still in Senate Environment Committee**

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**HB711** – (Delegate Beitzel, et al) Authorizing local jurisdictions to adopt a local amendment to allow manufactured homes to opt-out of sprinkler requirements if the local jurisdiction has adopted a local amendment to the Maryland Building Performance Standards that allows buildings and structures to opt-out of sprinkler requirement, etc. - **Unfavorable Report in Environmental Matters Committee**

*Note – this means that it can still be prohibitively expensive to erect manufactured homes in rural areas like Garrett County. The County needs the authority to exempt modular homes from the MBPS code in order to not require sprinkler systems.*

## **(Bills being watched by MAR)**

**MAR opposes HB 177** - Prohibiting the installation of an on-site sewage disposal system in the State in the watersheds of the Chesapeake and Atlantic Coastal Bays to service a newly constructed building unless the system utilizes nitrogen removal technology. **Still in House Environmental Matters Committee**

**SB 160** – Companion bill to HB177 – still in Senate Education Health and Environmental Affairs

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**MAR opposes HB847** – (Delegate Mitchell et al ) Requiring the Department of the Environment, in consultation with the Commission on Environmental Justice and Sustainable Communities and the Department of Health and Mental Hygiene, to develop maps that identify environmentally stressed communities in the State; requiring an Environmental Justice Review as a condition of issuing or renewing specified permits; etc. **Unfavorable Report by Environmental Matters Withdrawn**

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**MAR opposes HB1107** - **Sustainable Growth and Agricultural Preservation Act of 2011**  
Prohibiting, with specified exceptions, the State or a local authority, after July 1, 2011, from recording or approving a residential major subdivision or a residential minor subdivision that will be served by a specified on-site sewage disposal system; authorizing the State or a local authority, after July 1, 2011, to record or approve a specified residential major subdivision that will be served by a publicly owned sewerage system or specified other sewerage systems that meet specified criteria; etc. **Still in House Environmental Matters Committee**

**SB846** Companion bill to HB1107 - Re-referred Education Health and Environmental Affairs

*Note - There are reports that the House would like to refer this idea to further study.*

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**MAR opposes HB902** - Expanding the housing policy of the State regarding the provision of fair housing to include providing for fair housing regardless of source of income; establishing specified qualifications and limitations on the general prohibition against discrimination in

housing based on source of income; providing that specified provisions regarding housing discrimination due to a person's source of income do not apply to an assisted rental housing development; etc. - **Unfavorable Report by Environmental Matters**

#### **SB643 – Companion bill to HB902 – still in Senate Judicial Proceedings committee**

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**MAR opposes HB981** - Altering a prohibition on the Department of Housing and Community Development against adopting, as part of the Maryland Building Performance Standards, a modification that is more stringent than the International Building Code; requiring the Department to adopt as a modification of the Maryland Building Performance Standards a requirement that a single family dwelling unit in a development of six or more single family dwelling units have at least one entrance that meets specified accessibility standards; etc.

**Unfavorable Report by Environmental Matters Withdrawn**

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**MAR opposes HB1064** - *Requiring counties and municipalities to adopt laws or ordinances to establish a stormwater remediation fee and a local watershed protection and restoration fund on or before July 1, 2012*; requiring counties and municipalities to collect the fee and administer the fund in accordance with the Act; requiring counties and municipalities to set the amount of the fee and assess the fee in a specified manner; requiring counties and municipalities to report specified information to the Department of the Environment; etc. **Still in House Environmental Matters Committee**

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**MAR opposes HB1084** - *Authorizing a specified community improvement organization to summarily abate a nuisance on vacant, unoccupied property*; requiring a county, community improvement organization, or homeowners association to serve an abatement order in a specified manner before a community improvement organization may summarily abate a nuisance; authorizing a community improvement organization to summarily abate a nuisance after 14 days under specified circumstances; etc. **Unfavorable Report by Environmental Matters Withdrawn**

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**MAR opposes HB1033** - *Altering the requirements for the owner of affected property to initially satisfy a specified lead risk reduction standard*; altering the performance components required under a specified modified risk reduction standard; altering the information that the owner of an affected property is required to submit to verify satisfaction of a modified risk reduction standard; etc. - **Passed with amendments**

#### **SB840 – Companion bill to HB1033 - Re-referred Judicial Proceedings**

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**MAR opposed HB670** - Altering the actions that a landlord or mobile home park owner is prohibited from taking against a tenant or resident, respectively, for specified reasons; altering the reference to a specified prohibited action of a landlord or park owner to be a "retaliatory action"; authorizing a tenant or resident to raise the retaliatory action of a landlord or park

owner, respectively, in defense to an action for possession or in a claim for damages; etc.  
**Passed with Amendments, moved over to Senate Judicial Proceedings Committee**

**SB620 companion bill passed in the Senate with Amendments, moved over to House Environmental Matters Committee**

\*\*\*\*\*  
**MAR opposed HB887** - Limiting a condominium purchaser's right to rescind in writing a contract of sale based on amended material in a vendor's public offering statement to allow specified amendments that affect materially and adversely the purchaser's rights; requiring a purchaser to state in writing the purchaser's reason for rescission when it is based on specified amended material in a vendor's public offering statement; stating the intent of the General Assembly; etc.  
**Third Reading Passed (140-0), moved over to Senate Judicial Proceedings Committee**

\*\*\*\*\*  
**Mar opposes HB718** - Requiring that, on or after January 1, 2013, an owner or operator of a privately owned commercial building with an interior space of more than 10,000 square feet disclose energy benchmarking information; providing that a purchaser or lessee that does not receive an energy benchmark disclosure statement has the right to rescind a contract for sale or lease within a specified period; etc. **Still in House Environmental Matters Committee**

**SB 261 – companion bill to HB718 – still in Senate Judicial Proceedings**

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**MAR opposed SB304** - Establishing a specified renewable energy surcharge on electricity consumption above a specified amount by residential retail electric customers; requiring the Public Service Commission to authorize electric companies to add the full amount of the surcharge to the customers' bills; requiring electric companies to collect the surcharge and provide a specified rebate; establishing a Renewable Energy Benefit Fund; requiring the Comptroller to collect the revenue from the surcharge and place it in the Fund; etc.  
**Unfavorable Report by Finance Committee**

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**MAR opposed HB100** - Prohibiting a council of condominium unit owners or a homeowners association from foreclosing a lien under the Maryland Contract Lien Act if the damages secured by the lien consist only of specified fines or attorney's fees; and requiring a council of unit owners and a homeowners association to apply a specified payment to a unit or lot owner's account in a specified order of priority. **Unfavorable Report by Environmental Matters**

**SB 211 companion bill Third Reading Passed (40-5) with amendments, moved over to House Environmental Matters Committee**

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**MAR opposed HB179** - Requiring owners or managers of apartment buildings or condominiums to provide for recycling for residents on or before October 1, 2015; requiring specified owners or managers to report annually on recycling activities to the county in which the property is located; requiring that the recycling required under the Act be done in accordance with specified recycling plans; providing for a civil penalty for a violation of the Act; providing for

disbursement of penalties collected under the Act to specified jurisdictions; etc. **Third Reading Passed (105-33)**

**SB111 companion bill in Senate - Unfavorable Report by Education Health and Environmental Affairs**

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## **2011 Continuing Education Schedule**

**Beginning November 1, 2010, there must be a minimum of 10 students registered for classes to be held.**

Wed. Apr. 13, 2011	9:00 – 12:00	“Bankruptcies, Foreclosures/Short Sales” (F)
Wed. Apr. 27, 2011	10:00 – 11:30	“Risk Management” (F)

Wed. May 11, 2011	9:00 – 12:00	“MREC Agency – Residential” (H)
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(This is the newly required MD Real Estate Commission course that all licensees whose license renew after 1/1/12 must complete for license renewal. The REC will only accept renewal certificates in this course by instructors who have completed the instructional course by the REC.)

Wed. May 25, 2011	10:00 – 11:30	“Garrett Co. Real Estate Zoning, Ordinances & Beyond” (F)
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(This is a brand new course that Gary has designed for local real estate)

Wed. June 22, 2011	10:00 – 11:30	“Fair Housing” (C)
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Wed. July 20, 2011	9:00 – 12:00	“MD Legal Update” (A)
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Wed. Aug. 17, 2011	9:00 – 12:00	“Ethics/Predatory Lending” (D)
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(The MD Ethics course has also been approved by the GCBR Board of Directors to satisfy the NAR Quadrennial Retraining every member must complete every four years to retain membership. Completion of this course satisfies two requirements for GCBR members. Current NAR Cycle 3 is 1/1/09 – 12/31/12)

Wed. Sept 21, 2011	9:00 – 12:00	“MREC Agency – Residential” (H)
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<b><u>Cost:</u></b>	1.5 hours \$20.00 (Realtor®)	\$30.00 (non-Realtor®)
	3.0 hours \$30.00 (Realtor®)	\$40.00 (non-Realtor®)

**Registration flyers will be faxed or emailed upon request.**

**As per the Maryland Real Estate Commission, you must be signed in and prepared when the class begins. If you arrive late or leave early, you will not get credit for the class. The Commission accepts no excuses at all.**

Note: There is a \$5.00 charge for any continuing education certificates that have to be reissued.

## **MD Real Estate License Renewal Requirements**

***Required Topics for ALL Licensees***

1. Topic D – Ethics and Predatory Lending – 3 clock hours
2. Topic A – Federal, state or local legislative issues – 3 clock hours
3. Topic C – Fair Housing Law – 1.5 clock hours

**Total Hour Requirements – 15 clock hours**

Effective October 1, 2008 requires licensees to retain documents for 5 years.

\*\*\*\*\*

**MRIS**  
**Important Warning to MRIS Subscribers**

As a valued member of our association, we want you to be aware that MRIS **does** monitor customer logins to their applications. **Starting this week, MRIS will begin notifying their customers if password sharing has been detected.** Should you receive a notification, you will need to follow the steps on the notification to stop the sharing of your login credentials. If the password sharing continues, MRIS will begin issuing fines and even revoking access.

The MRIS Subscription Agreement, signed by each MRIS customer, states that the password/PIN must remain under the control of the subscriber and cannot be shared. Continued sharing of login credentials is a breach of the legal terms governing your subscription. **Your personal or administrative assistant must also have their own MRIS subscription so they receive a separate User ID, PIN and Password for access to the system.**

We recommend you change your password immediately if you believe that your login credentials may be compromised. Protect your User ID, PIN, and Password and DO NOT SHARE it with anyone else.

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**Maryland Association of REALTORS®**

**WITHHOLDING RATE FOR REAL ESTATE SALE BY NON-RESIDENTS is reduced to 6.75%. For additional information, [CLICK](#)**

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**National Association of REALTORS®**

**Keep Realtor® Safety Blooming**

Springtime brings increased business and new opportunities – and an opportunity to turn over a new leaf on safety. Plant the seeds of safety by attending the FREE April 5<sup>th</sup> Safety webinar: **“Top 10 Ways To Keep You & Your Clients Safe At Open Houses”**

Safety expert Andrew Wooten will lead you through the top 10 techniques to increase the safety of REALTORS®, their clients and their client’s property during an open house in the free NAR webinar on Tuesday, April 5 at 11am register today at [www.REALTOR.org/Safety](http://www.REALTOR.org/Safety) space is limited.

**Update from NAR Regarding Mortgage Assistance Relief Services Final Rule**

MAR and boards across the country have been communicating with NAR to obtain clarification regarding whether real estate licensees must comply with the new Mortgage Assistance Relief Services (“MARS”)

final rule. We have also been trying to reconcile the content of the disclosures under MARS with the contractual obligations of parties pursuant to the real estate brokerage agreement.

The rule defines MARS services as a service, plan or program offered to a consumer in exchange for compensation in relation to a consumer mortgage, including, negotiating loan modifications, directing consumers to stop paying their mortgage, modifying consumers' payment arrangements, and negotiating short sales. A MARS Provider is someone who provides, offers to provide, or arranges to provide any mortgage assistance relief service.

The issue is that the Federal Trade Commission ("FTC") said that the term "negotiate" includes communications with a lender regarding a possible short sale. This would obviously impact real estate licensees who assist sellers in short sale transactions.

The most recent communication from NAR is that the FTC realizes that its current disclosure language does not make sense when a real estate broker is representing a consumer in a short sale transaction. The FTC has told NAR that brokers/agents who list a property that is/will be a short sale need not make the consumer specific disclosure nor do real estate professionals need to make the disclosure called for at the time the lender approves the short sale. Note, the disclosures were outlined in our initial posting which you may access at:

<http://www.mdrealtor.org/LegalAffairs/LegalAffairsNews/ctl/ArticleView/mid/1007/articleId/399/New-FTC-Rule-Requires-Short-Sale-Disclosures.aspx>.

However, NAR is saying that no broker should charge an upfront fee if the broker's services include facilitating the short sale. Additionally, any broker advertising himself/herself as a short sales specialist should make the advertising disclosure.

NAR anticipates receiving additional guidance from the FTC shortly and will get it out to members as quickly as possible.

In the interim, NAR has asked that questions regarding MARS be directed to [finley@realtors.org](mailto:finley@realtors.org).

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## Case Studies Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

**Case #2-2: Responsibility for Sales Associate's Error** (Revised case #9-5 May, 1988. Transferred to Article 2 November, 1994.)

REALTOR® A, a REALTOR® principal, was asked to list a neglected house that obviously needed a wide range of repairs. He strongly advised the owner that it would be to his advantage to put the house in good repair before offering it for sale, but the owner wanted it sold at once on an "as is" basis. REALTOR® A wrote a novel advertisement offering a "clunker" in poor condition as a challenge to an ambitious do-it-yourself hobbyist.

A few days later, Sales Associate B, who was not a Board member, from REALTOR® A's office showed the house to a retired couple who liked the location and general features, and who had been attracted by the ad because the husband was looking forward to applying his "fix-up" hobby to improving a home. The sale was made. Shortly thereafter, REALTOR® A was charged by the buyer with having misrepresented the condition of the property.

REALTOR® A accompanied Sales Associate B to the hearing, armed with a copy of his candid advertisement. The hearing established that the buyer fully understood that the house was represented to be generally in poor condition, but that while inspecting the house with a view to needed repairs, Sales Associate B had commented that since the house was of concrete block and stucco construction, there would be no termite worries since termites could not enter that type of construction. Sales Associate B confirmed this and his belief that the statement was correct. However, after the sale was made, the buyer ripped out a sill to replace it and found it swarming with termites, with termite damage to floors in evidence. Further questioning established that there had been no evidence of termite infestation prior to the sale, and that the Sales Associate had volunteered an assurance that he thought was well grounded.

REALTOR® A, prior to the conclusion of the hearing, offered to pay the cost of exterminating the building and the cost of lumber to repair termite damage in view of Sales Associate B's failure to recommend a termite inspection, which was the usual and customary practice in this area. The complainant stated that this would satisfy him completely. It was the Hearing Panel's view that while REALTOR® A's actions were commendable, and would be taken into account by the Hearing Panel, REALTOR® A was still responsible for the errors and misstatements of the sales associates affiliated with him. The Hearing Panel concluded that REALTOR® A was in violation of Article 2.

# Garrett County Board of REALTORS®

GCBR News Briefs – May 1, 2011

## Membership Update

### New REALTOR® Members:

#### New Affiliate Members:

Deep Creek Marina  
2010 Deep Creek Drive  
McHenry, MD 21541  
Tack Spiker  
301-387-6977  
[www.deepcreekmarina.com](http://www.deepcreekmarina.com)

### Drops:

### Transfers:

### Name Changes:

Betsy Spiker has changed her name to Betsy Spiker Holcomb

### Office Changes:

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Government Affairs Report, Paul Durham G.A.D.

## SUMMARY OF 2011 REAL ESTATE LEGISLATION Maryland Association of REALTORS®



MARYLAND ASSOCIATION OF REALTORS®  
**GOVERNMENT AFFAIRS**

\* Indicates a bill that has been signed by the Governor. All other bills listed have only been **passed** by the Maryland General Assembly and must still be signed by the Governor to take effect.

**“Defeated”** indicates bills opposed by MAR. **“Not Passed”** indicates bills that either MAR did not oppose or bills that MAR opposed but which never received a vote.

MAR has also produced a nice video wrap-up from the session, with MAR President Cathy Werner detailing some of MAR’s priorities during the session, wee it online at <http://www.mdrealtor.org/Legislative/GovernmentAffairsNews.aspx>

### **AFFORDABLE HOUSING AND TAXES**

**HB 437 – Real Property – Sales of New Homes – Minimum Visitability Features**  
**STATUS: PASSED** – Applies to any planned subdivision receiving preliminary plan approval on or after October 1, 2012

Requires certain new subdivisions receiving preliminary plan approval on or after October 1, 2012 to offer consumers an option to purchase a “visitable” home. The law applies only to subdivisions of 11 or more single-family, detached units. In order to be “visitable” a home would have to include a ground level entrance that is at least 36 inches in width, and is accessible to parking or a public right of way with no vertical obstacles like steps or curbs. HB 437 was passed rather than HB 981 – a bill MAR opposed -- which would have required at least 50% of the units in a subdivision of 5 or more to be built as “visitable” units.

**HB 521/SB 328 – Estates and Trusts – Transfers – Recordation and Transfer Taxes**  
**STATUS: PASSED** – Effective July 1, 2011

Clarifies that transfer and recordation taxes may not be imposed on a mortgage or deed of trust that is transferred as part of an estate or trust to a beneficiary or a trust as long as there was no consideration. This legislation seeks to provide a more uniform treatment of estate and trust property because some counties imposed transfer and recordation taxes on the mortgage or deed of trust when property was transferred as part of the management of the estate or trust.

**HB 603 – Maryland Energy Administration – Clean Energy Loan Payment Program**  
**STATUS: NOT PASSED**

Would have established a Clean Energy Loan Program to help fund energy efficiency and clean energy improvements for property owners. HB 603 would allow property owners to voluntarily enter into agreements that impose a property tax surcharge on their own property in order to repay the underlying loan costs.

**HB 662/SB 648 – Renewable Energy Surcharge – Retail Electric Customers**  
**STATUS: DEFEATED**

Would have charged electricity ratepayers a renewable energy surcharge if the ratepayer’s usage exceeded average energy usage by 25%. Would have also established a rebate against the electricity rate for ratepayers that chose renewable energy electric providers.

**HB 695 – Property Tax – Semiannual Payments for Residential Property****STATUS: NOT PASSED**

Would have extended the semi-annual payment of property taxes to all residential property in Maryland regardless of whether it was owner-occupied.

**HB 856/SB 332 – Gas Companies – Infrastructure Replacement – Surcharge****STATUS: DEFEATED**

Would have imposed a monthly surcharge on residential and commercial gas customers to pay for gas infrastructure improvements.

**HB 1064 – Watershed Protection and Restoration Act****STATUS: NOT PASSED**

Would have imposed a stormwater fee on all residential and commercial property in order to pay for stormwater infrastructure improvements. The legislation would have required local governments to impose the fee at a rate the local government determined. Residential owners would pay a flat rate and commercial owners would pay a rate based on their property's impervious surface.

**HB 1245 – Recordation Tax and State Transfer Tax – Exemptions****STATUS: PASSED – Effective July 1, 2011**

Expands the class of intra-family real property transfers that are exempt from recordation and transfer taxes to grandparents or step-grandparents.

**HB 1295 – Property Tax – Charter Counties – Limits****STATUS: NOT PASSED**

Would have allowed the five charter counties with property tax limitations to increase property taxes in excess of the Charter limits by a two-thirds vote of their county council. Those five counties are Anne Arundel, Montgomery, Prince George's, Talbot, and Wicomico.

**HB 1352 – Local School Boards – Authority to Impose a Property Tax****STATUS: NOT PASSED**

Would have given local school boards the authority to levy property taxes to pay for the operation of local schools. If a school board exercised such authority, a county government would be required to reduce the county property tax by an amount equal to the new tax imposed by the school board.

**SB 304 – Renewable Energy Surcharge – Retail Residential Electric Customers****STATUS: DEFEATED**

Would have required electric companies to charge residential ratepayers with a surcharge if their electricity consumption exceeded 1000 kilowatt hours per month. The ratepayer would be entitled to a rebate of some of the cost by using electricity generated by renewable energy sources.

**SB 316 – Property Tax – Charter Counties – Education Funding**

**STATUS: NOT PASSED**

Would have allowed the five charter counties with property tax limitations to increase property taxes in excess of the Charter limits to fund the local school budget. If a county exercised this authority, it would be prohibited from reducing education funding from other sources. Those five counties are Anne Arundel, Montgomery, Prince George's, Talbot, and Wicomico.

**REAL ESTATE BROKERAGE AND CONTRACTS**

**\*HB 102 – Financial Institutions – Mortgage Loan Originators – Prohibited Acts**

**STATUS: PASSED** – Effective October 1, 2011

Prohibits a mortgage loan originator from making a payment, threat, or promise in order to improperly influence the independent judgment of a real estate appraiser. However, HB 102 would still permit a mortgage loan originator to request the appraiser to: consider additional information; provide further substantiation of the appraiser's conclusions; and correct errors. Payment may also be withheld if the appraisal is subject to a legal or administrative action.

**HB 128 – Consumer Law – Maryland Consumer Protection Act – Scope**

**STATUS: PASSED** – Effective October 1, 2011

Adds merchants whose business includes paying off consumer debt in connection with consumer goods and realty to the purview of the unfair or deceptive trade practices act if the merchant is purchasing or offering to purchase consumer goods or realty.

**HB 289/SB 410 – State Highway Administration – Unauthorized Signs on Highway Rights-of-Way**

**STATUS: PASSED** – Effective October 1, 2011

Authorizes local governments (on behalf of the state) to enforce the current prohibition against signs on state highway rights-of-way through an administrative fine and sign collection. MAR worked with the sponsor of the legislation to lower the original fine from \$100 per sign to \$25 per sign, and to require local jurisdictions to forego collecting fines for the first three months so that individuals could be educated about the new requirement.

**HB 357/SB 234 – State Real Estate Commission – Sunset Extension and Program Evaluation**

**STATUS: NOT PASSED**

Would have reauthorized the Maryland Real Estate Commission starting in July 2012. Would have increased the maximum guarantee fund payment from \$25,000 to \$50,000. Would have clarified that associate brokers and licensees must submit and change their licenses when the address of the real estate office changes. Would have increased the dishonored check fee from \$25 to \$35. Would have required the Real Estate Commission to issue a report detailing foreclosures associated with transactions by a licensee.

**HB 379/SB 334 – Real Property – Deposits on New Homes – Escrow Accounts**  
**STATUS: PASSED – Effective July 1, 2011**

Clarifies that a builder must open an escrow account prior to construction of a new residential unit, and must maintain the money in the account until the home is completed. Clarifies that money deposited in an escrow account to pay a construction draw schedule may be released in accordance with the draw schedule. The bill addresses ambiguities in current law due to a recent court case.

**\*HB 509 – Real Property – Mortgages – Enforcement**  
**STATUS: PASSED – Effective April 12, 2011**

Authorizes the Commissioner of Financial Regulation to enforce the foreclosure and mortgage fraud laws in Maryland. Clarifies that the Commission may use certain investigative authority as well as compel violators of the law to make restitution to victims.

**HB 713/HB 838/SB 530 – Residential Property Tax Disclaimer Act**  
**STATUS: NOT PASSED**

As originally introduced in past years, this legislation would have required all real estate advertisements to contain the estimated property tax payment of a property for sale. MAR opposed that legislation, but agreed to amendments that would have provided a notice to the buyer in the Seller Property Condition Disclosure/Disclaimer form as an alternative. The notice to the buyer states that the buyer's tax bill may be significantly different than the seller's current bill, and that buyers should contact local government in order to estimate their future tax obligation. Although the legislation passed the House, it was never voted in the Senate Committee.

**HB 719/SB 606 – Residential Property Sales – Disclosure of Utility Consumption**  
**STATUS: NOT PASSED**

Although MAR was opposed to the bill as originally conceived, MAR agreed to a compromise with the Maryland Energy Administration that would have required utility information to be provided to buyers visiting a property.

**\*HB 944 – Financial Institutions – Mortgage Lenders and Mortgage Loan Originators**  
**STATUS: PASSED – Effective October 1, 2011**

Requires a person who is exempt from State Mortgage Licensing requirements to register with the Nationwide Mortgage Licensing System and Registry (NMLS) if the person employs a licensed mortgage loan originator. This change conforms state law with new requirements in the federal Secure and Fair Enforcement for Mortgage Licensing Act (SAFE ACT).

**HB 1038 – Commercial Law – Residential Mortgage Loans – Escrow Amounts**  
**STATUS: PASSED – Effective October 1, 2011**

Prohibits a lender from charging interest for up to one year on the amount of additional escrow money a lender requires a borrower to pay after establishment of the original escrow.

**\*HB 1041/SB 256 – Business Regulation – Definition of Homebuilder**  
**STATUS: PASSED** – Effective October 1, 2011

Requires developers to register as a homebuilder if the developer enters into contracts with consumers to provide or construct homes.

**\*HB 1049 – Real Estate Brokers – Intracompany Agents**  
**STATUS: PASSED** – Effective October 1, 2011

Authorizes a broker to appoint another licensee in the office to designate the intracompany agents working for the same real estate team. The designee appointed by the broker may not be a member of that real estate team. Prior to this change, the broker of record was the only licensee authorized to designate the intracompany agents for real estate teams.

**\*HB 1109 – Real Property – Rescission of Sales Contracts – Return of Deposits**  
**STATUS: PASSED** – Effective October 1, 2011

Clarifies that brokers must follow the current rules under 17-505 of the Business Occupations and Professions Article for returning deposit money when state law permits a buyer to rescind a contract of sale. In order to return deposit money, 17-505 requires: an agreement of the parties; an interpleader action; or a determination by the broker of who should receive the money and notification to the parties of the decision. This process must be followed even if the property is subject to a condo, HOA or Coop regime.

**HB 1181/SB 658 – State Commission of Real Estate Appraisers and Home Inspectors – Special Fund and Registration and Regulation of Real Estate Appraisal Management Companies**  
**STATUS: PASSED** – Effective July 1, 2011

Requires Appraisal Management Companies (AMCs) to register with the State Commission of Real Estate Appraisers and Home Inspectors. Institutes standards that the AMCs must meet when working with appraisers.

**HB 1309 – Real Estate Appraisers – Valuation Appraisals – Requirements**  
**STATUS: NOT PASSED**

Would have prohibited the use of distressed sales when preparing a property appraisal.

**SB 210 – Real Estate Settlements – Paying or Receiving Consideration – Penalties**  
**STATUS: NOT PASSED**

Would have given clearer authority to the real estate commission to take action against licensees violating kickback prohibitions. Would have given authority to other licensing agencies (e.g. Appraisers) to take action against their licensees as well.

**SB 285 – State Real Estate Commission – Reinstatement of Licenses and Inactive Status**

**STATUS: PASSED** – Effective October 1, 2011

Requires real estate licensees on inactive status to reinstate their full license after 3 years of inactive status rather than 4 years. Also requires licensees on inactive status to keep up with continuing education requirements before being able to renew their inactive status after two years. MAR requested an amendment so that the bill would not apply to licensees going on inactive status until on or after October 1, 2011.

**SB 918 – Real Property – Recordation of Deed – Foreclosure Sales**

**STATUS: NOT PASSED**

Would have required a deed from a foreclosure sale to be recorded within 60 days after the date of the final order of ratification.

**COMMON OWNERSHIP COMMUNITIES**

**HB 592/HB 942 – Common Interest Community Managers – Licensing and Regulation**

**STATUS: NOT PASSED**

Would have required property managers for common interest communities (e.g. condos and HOAs) to be licensed and regulated by the Maryland Department of Labor, Licensing and Regulation. The bill excludes time share communities or completely commercial properties. There were other proposals as well that would have only required registration rather than a full license.

**HB 827/SB 548 – Condominium and Homeowners Associations – Assessments – Increase Necessary to Meet Government Requirements**

**STATUS: DEFEATED**

Would have authorized condo and HOA association Boards of Directors to increase association assessments without the approval of the association members in order to pay for costs imposed upon the association by government since the adoption of the last annual budget.

**\*HB 679 – Real Property – Condominiums – Amendment to Bylaws to Require Unit Insurance Coverage**

**STATUS: PASSED** – Effective October 1, 2011

Authorizes condominiums to amend their bylaws by a simple majority (51%) of the council of unit owners in order to require unit owners to maintain individual homeowner insurance policies.

**HB 1246/SB 946 – Condominiums and Homeowner Associations – Priority of Liens**

**STATUS: PASSED** – Effective October 1, 2011

Establishes that a condo or HOA has a limited priority lien over all other liens except those imposed by government. The lien is limited to 4 months of unpaid regular

assessments for the common expenses or a maximum of \$1,200. The priority lien cannot include special assessments, attorney fees, late charges, interest and other charges beyond the normal assessment. If a lender requests specific information regarding the priority lien, the condo or HOA association must provide that information within 30 days of filing the lien statement in the land records.

## **LAND-USE, PROPERTY RIGHTS, AND THE ENVIRONMENT**

### **HB 57/SB 539 – Environment – Bay Restoration Fund – Authorized Uses**

**STATUS: PASSED** – Effective October 1, 2011

Authorizes money from the Bay Restoration Fund grants to be used to pay some of the cost of connecting properties to sewer. Currently, the grant money may only be used to pay for septic system upgrades, but this bill allows grants for a sewer connection in instances when a septic upgrade would be more expensive or not feasible.

### **HB 177/SB 160 – Environment – On-Site Sewage Disposal Systems – Nitrogen Removal**

**STATUS: NOT PASSED**

Would have required all new residential construction located in the Chesapeake or Atlantic Coastal Bay Watershed in Maryland to use Best-Available-Technology (BAT) if the property relies on a septic system. BAT systems are very expensive and would significantly increase the cost of most affordable housing. This bill will be studied over the summer along with other environmental issues impacting the Bay.

### **HB 1107/SB 846 – Sustainable Growth and Agricultural Preservation Act of 2011**

**STATUS: NOT PASSED**

Would have prohibited septic systems in all new residential subdivisions of 5 or more lots in Maryland. The bill would have permitted certain community systems to be used for the affected subdivisions. Because the cost of community systems or connecting to sewer would be too much for many subdivisions, this legislation would have undermined many county growth plans. This bill will be studied over the summer along with other environmental issues impacting the Bay.

### **SB 873 – Private Property Rights – Regulatory Infringement – Compensation**

**STATUS: NOT PASSED**

Would have provided property owners with a cause of action if regulations promulgated by state agencies diminished a property's value. The state agencies would only be liable for compensation if those agencies could not demonstrate that their action protected public safety or was necessary to comply with federal law.

## **PROPERTY MANAGEMENT**

### **HB 179/SB 111 – Environment – Recycling – Apartment Buildings or Condominiums**

**STATUS: DEFEATED**

As originally proposed, this legislation would have required apartment buildings and condominiums to offer recycling to their occupants regardless of whether the county provided recycling to multi-unit buildings. However, as amended, the legislation would have required apartments and condo buildings to also keep records on the amount and type of recycled materials.

**\*HB 653/SB 457 – Lawyers – Bar Admission Requirement – Exception for Rent Escrow Proceedings**

**STATUS: PASSED** – Effective October 1, 2011

Allows non-attorneys to represent landlords or tenants in rent escrow cases. Occasionally, property managers representing owners in court on a summary ejectment proceeding find themselves also engaged in a rent escrow action.

**HB 670/SB 620 – Real Property – Retaliatory Actions – Landlords and Mobile Home Park Owners**

**STATUS: PASSED** – Effective October 1, 2011

Establishes a different standard for a tenant to prove a retaliatory action by a landlord. Under the current law, a tenant can only prove a retaliatory action if the “sole” reason for the action was to target the tenant. Landlord groups crafted a compromise with tenant groups to permit tenant actions to move forward in a limited way with a cap on damages of 3 months and court costs.

**HB 842/SB 516 – Foreclosed Residential Property – Tenants – Collection of rent Payments – Prior Notice**

**STATUS: PASSED** – Effective July 1, 2011

Requires a purchaser of a foreclosed property with a bona fide tenant to notify the tenant about the purchaser’s ownership so the tenant can pay the rent. A tenant is not required to pay any rent until the tenant receives the notice. MAR sought an amendment to give the new purchaser 15 days to notify the tenant before the purchaser foregoes any claim on the rent.

**HB 902/HB 928/SB 643 – Human Relations – Housing Discrimination – Source of Income**

**STATUS: DEFEATED**

Two bills were introduced to make “source of income” a protected class under Maryland law. MAR supported one bill, HB 928, but opposed the other HB 902. HB 902 would have made all sources of income a protected class, even government vouchers like Section 8. HB 902 would have made all sources of income except vouchers a protected “source of income.”

**HB 917/HB 284/SB 429/SB 669 – Real Property – Residential Leases – Interest on Security Deposits**

**STATUS: NOT PASSED**

Many bills were introduced to address this issue, but HB 917 was the only one of the bills to advance. It would have required landlords to return deposits with an interest rate

of 1.5% or a rate equal to the U.S. Treasury Daily Yield Curve Rate whichever is higher. Although HB 917 was passed by the House, the Senate did not take action on the bill.

#### **HB 1004 – Real Property – Landlord and Tenant – Breach of Lease**

**STATUS: NOT PASSED**

Would have allowed landlords to use a faster process to file an eviction case against a tenant engaged in disorderly conduct which disrupts other tenants.

#### **HB 1033/SB 840 – Environment – Reducing Lead Risk in Housing – Risk Reduction Standards**

**STATUS: PASSED** – Effective January 1, 2012

Requires that landlords subject to the Maryland Lead Poisoning Prevention Program (LPPP) use a dust test when verifying whether a property is in compliance with the program. The current law allows a landlord to conduct either a lead dust test or perform certain risk reduction acts. The original version of this bill would have required a landlord to perform both a dust test and the risk reduction steps. HB 1033 requires only the dust test. The bill also requests the Maryland Department of the Environment to conduct a study regarding lead poisoning in owner-occupied properties and rental properties not subject to the current law.

#### **HB 1254 – Environment – Reduction of Lead Risk in Housing – Registration and Fees**

**STATUS: PASSED** – Effective July 1, 2011

Authorizes the Maryland Department of the Environment (MDE) to establish a rolling payment schedule for landlords participating in the Lead Poisoning Prevention Program (LPPP). Under current law, all landlords are required to pay by December 31. For landlords with multi-unit buildings, a single payment in December was a significant cost. MDE is seeking to establish a schedule that will allow the Department to spread its work out as well as a schedule that will allow landlords to spread out their payment.

#### **SB 503 – Foreclosure Purchaser and Tenant – Evictions – Tenant's Right to Reclaim Personal Property**

**STATUS: NOT PASSED**

Would have given tenants an extra 3 days to remove property from a unit after the day of eviction.

### **COMMERCIAL**

#### **HB 420 – Recordation Tax – Indemnity Mortgages**

**STATUS: NOT PASSED**

Would have required recordation taxes to be paid on indemnity mortgages for property when the mortgage is \$5 million or more. The intent of the legislation was to capture transactions that were using indemnity mortgages as a way to avoid paying the recordation tax.

#### **HB 463 – Property Tax – Semiannual Payment Schedule – Business Property**

**STATUS: PASSED** – Effective to tax years starting after June 30, 2012

Expands the number of businesses that may pay property taxes under a semi-annual schedule. Under the existing law, only a small business assigned a commercial use code by the State Department of Assessments and Taxation and whose annual property taxes did not exceed \$50,000 could pay property taxes on a semi-annual schedule. HB 463 would allow any business assigned a commercial use code and which pays a property tax bill up to \$100,000 to pay taxes semi-annually.

**\*HB 601 – Sustainable Communities Tax Credit Program – Eligibility**

**STATUS: PASSED** – Effective July 1, 2011

Clarifies that the Sustainable Communities Tax Credit may be used for commercial properties that have already begun rehabilitation work if the rehabilitation work had already been approved under the Federal Historic Tax Credit.

**HB 718/SB 261 – Real Property – Commercial Buildings – Disclosures**

**STATUS: NOT PASSED**

Would have required certain commercial building owners to disclose to prospective buyers and lessees the energy performance of the building or rental space. MAR was particularly concerned over provisions that would have given buyers and lessees the unconditional right to rescind a contract for up to 60 days after taking possession.

**HB 976 – Displaced Building Service Workers Protection Act**

**STATUS: DEFEATED**

Would have required companies (like rental properties) to keep employed the workers of a contractor working for the rental property for at least 90 days after the contractor was terminated. After the 90 day period, the new contractor hired by the rental property would be required to use the workers from the terminated contractor if there was no cause to fire those workers during the 90 day transition period.

**HB 1050 – Construction Permits – Expiration Dates**

**STATUS: NOT PASSED**

Would have extended the duration of development and construction permits approved by state, local and municipal governments. The bill applied only to permits approved on or after January 1, 2008.

**MISCELLANEOUS**

**\*SB 182 – Maryland Health Benefit Exchange Act of 2011**

**STATUS: PASSED** – Effective June 1, 2011

Provides the initial framework of the Health Benefit Exchanges that will become available to all Marylanders in 2014. These state exchanges are intended to provide greater choice and affordability in health insurance particularly to individuals like independent contractors.

## **Governor Martin O'Malley Announces Task Force to Examine Septic Pollution:**

Governor O'Malley established a task force on April 18th to study curbing pollution of the Chesapeake Bay from septic systems, saying he hoped it would help overcome concerns about the legislation he pushed unsuccessfully this year that would have banned large housing developments relying on the waste treatment systems.

The Governor's efforts to limit major housing developments using septic systems failed to get out of committee this past legislative session after rural lawmakers, farmers and developers raised an outcry, warning that it would throttle growth and cost jobs in the state's rural and suburban counties.

The task force includes representatives from the development and real estate community. A copy of the executive order can be viewed online at...

<http://www.governor.maryland.gov/executiveorders/01.01.2011.05.pdf>

## **Planning Commission to Vote Again on Comprehensive Plan Amendments Calling for Ridgeline Protection:**

When the county's most recent Comprehensive Plan (2008) was originally drafted, the Planning Commission included language recommending measures to address ridgeline protection. This was in response to the then relatively new industrial wind turbine issue in the county. The language was deleted by the previous Board of County Commissioners.

The Planning Commission voted on April 6<sup>th</sup> (by a majority of those present) to re-insert the language back into the plan. The recommendation was then forwarded to the Board of County Commissioners for action.

A legal review of the Planning Commission's vote found that a majority of the commission had not approved the change, only a majority of those present at the meeting. State law requires that an amendment of a plan by resolution of the commission must be carried by an affirmative vote of a majority of the commission membership.

The matter will be reexamined at the commission's May 4 meeting.

The amendments can be viewed online at the county's web site at:

[http://garrettcounty.org/PlanningLand/PlanningZoning/documents/Changes\\_to\\_Comp\\_Plan.pdf](http://garrettcounty.org/PlanningLand/PlanningZoning/documents/Changes_to_Comp_Plan.pdf)

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## 2011 Continuing Education Schedule

**Beginning November 1, 2010, there must be a minimum of 10 students registered for classes to be held.**

**Wed. May 11, 2011 9:00 – 12:00 “MREC Agency – Residential” (H)**

(This is the newly required MD Real Estate Commission course that all licensees whose license renew after 1/1/12 must complete for license renewal. The REC will only accept renewal certificates in this course by instructors who have completed the instructional course by the REC.)

**Wed. May 25, 2011 10:00 – 11:30 “Garrett County .Real Estate Zoning, Ordinances & Beyond”(F)**

(This is a brand new course that Gary designed for local real estate)

**Wed. June 22, 2011 10:00 – 11:30 “Fair Housing” (C)**

**Wed. July 20, 2011 9:00 – 12:00 “MD Legal Update” (A)**

**Wed. Aug. 17, 2011 9:00 – 12:00 “Ethics/Predatory Lending” (D)**

(The MD Ethics course has also been approved by the GCBR Board of Directors to satisfy the NAR Quadrennial Retraining every member must complete every four years to retain membership. Completion of this course satisfies two requirements for GCBR members. Current NAR Cycle 3 is 1/1/09 – 12/31/12)

**Wed. Sept 21, 2011 9:00 – 12:00 “MREC Agency – Residential” (H)**

**Cost: 1.5 hours \$20.00 (Realtor®)                      \$30.00 (non-Realtor®)**

**3.0 hours \$30.00 (Realtor®)                      \$40.00 (non-Realtor®)**

**Registration flyers will be faxed or emailed upon request.**

**As per the Maryland Real Estate Commission, you must be signed in and prepared when the class begins. If you arrive late or leave early, you will not get credit for the class. The Commission accepts no excuses at all.**

Note: There is a \$5.00 charge for any continuing education certificates that have to be reissued.

## **MD Real Estate License Renewal Requirements**

### ***Required Topics for ALL Licensees***

1. Topic D – Ethics and Predatory Lending – 3 clock hours
2. Topic A – Federal, state or local legislative issues – 3 clock hours
3. Topic C – Fair Housing Law – 1.5 clock hours

### ***Total Hour Requirements – 15 clock hours***

Effective October 1, 2008 requires licensees to retain documents for 5 years.

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## MRIS

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### **Maryland Association of REALTORS®**

**NEW EMERGENCY MORTGAGE ASSISTANCE program offered by the State for those who are behind with their mortgage.**

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### **National Association of REALTORS®**

#### **Real Estate at Risk in Debt Ceiling Vote**

Failure by Congress to pass an increase in the federal debt ceiling, which could come up for a vote in a few weeks, could severely impact real estate. Interest rates could rise dramatically, among other things. Congress has always voted to increase the debt ceiling in the past, but this year some lawmakers are saying they'll vote no unless budget cuts are included. NAR Tax Counsel Linda Goold talks about the vote and its consequences in a [6- minute video](#) interview.

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### **Case Studies Interpretation of the Code of Ethics**

CASE STUDIES ARE PULLED FROM "INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL" OF THE NATIONAL ASSOCIATION OF REALTORS®

**Case #2-14: Time at Which Modification to Offer of Subagency is Communicated is a Determining Factor** (Revised Case #9-26 May, 1988. Transferred to Article 2 November, 1994. Cross-reference Case #3-7.)

REALTOR® A listed Seller X's home and filed the listing with the MLS. The property data sheet indicated the compensation REALTOR® A was offering to the other Participants if they were successful in finding a buyer for Seller X's home.

During the next few weeks, REALTOR® A authorized several Participants of the Multiple Listing Service, including REALTOR® C, to show Seller X's home to potential buyers. Although several showings were made, no offers to purchase were forthcoming. REALTOR® A and Seller X, in discussing possible means of making the property more salable, agreed to reduce the listed price. REALTOR® A also agreed to lower his commission. REALTOR® A changed his compensation offer in the MLS and then called the MLS Participants who had shown Seller X's property to advise them that he was modifying his offer of

compensation to cooperating brokers. Upon receiving the call, REALTOR® C responded that he was working with Prospect Z who appeared to be very interested in purchasing the property and who would probably make an offer to purchase in the next day or two. REALTOR® C indicated that he would expect to receive the compensation published originally in the MLS and not the reduced amount now being offered to him, since he had already shown the property to Prospect Z and expected an offer to purchase would be made shortly. REALTOR® A responded that since Prospect Z had not signed an offer to purchase and no offer had been submitted the modified offer of compensation would be applicable.

The following day, REALTOR® C wrote an offer to purchase for Prospect Z. The offer was submitted to the Seller by REALTOR® A and was accepted. At the closing, REALTOR® A gave REALTOR® C a check for services in an amount reflecting the modified offer communicated to REALTOR® C by phone. REALTOR® C refused to accept the check indicating that he felt REALTOR® A's actions were in violation of the Code of Ethics. REALTOR® C filed a complaint with the Board's Grievance Committee alleging violation of Articles 2 and 3 on the part of REALTOR® A citing Standard of Practice 3-2 in support of the charge.

During the hearing, REALTOR® C stated that REALTOR® A's modification of the compensation constituted a misrepresentation though concealment of the pertinent facts since he had not provided REALTOR® C with specific written notification of the modification prior to the time REALTOR® C began his efforts to interest the purchaser in the listed property. REALTOR® A defended his actions by indicating that timely notice of the modification of compensation offered had been provided to REALTOR® C by telephone prior to REALTOR® C submitting a signed offer to purchase. REALTOR® A also indicated that his modified offer of compensation had been bulletined to all Participants, including REALTOR® C, through the MLS in accordance with Standard of Practice 3-2 prior to the time that REALTOR® C had submitted the signed offer to purchase. REALTOR® A also commented that had REALTOR® C submitted the signed offer to purchase prior to REALTOR® A communicating the modified offer, the REALTOR® A would have willingly paid the amount originally offered.

Based on the evidence presented to it, the Hearing Panel concluded that REALTOR® A had acted in accordance with the obligation expressed in Standard of Practice 3-2 based on changing the offer of cooperative compensation in the MLS alone, even without the courtesy phone calls, and consequently was not in violation of Articles 2 or 3.

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Become a fan so we can obtain a Username we need 15 more fans!**

# Garrett County Board of REALTORS®

GCBR News Briefs – June 1, 2011

## Membership Update

### **New REALTOR® Members:**

Diva Bunting – Touchstone Realty, LLC (Secondary Member)

### **New Affiliate Members:**

### **Drops:**

Delaine Campbell – Long & Foster

Eric Recker – Railey Realty

### **Transfers:**

### **Changes:**

Jack Queen has retired from Long & Foster, the new broker is now Nick D'Ambrosia

Jonathan Robeson is our new contact for Deep Creek Title Co.

Address: 113 S. Third Street

Oakland, MD 21550

Telephone: 301-334-3458

Fax: 301-334-3459

Email: [jonbrobeson@aol.com](mailto:jonbrobeson@aol.com)

### **New Office:**

**Touchstone Realty, LLC**

MD Broker: Tommy Thayer

1314 Edwin Miller Blvd

Martinsburg, WV 25404

Office Phone: 304-260-9380

Fax: 304-260-9381

Email: [tommy@garrettlandsales.com](mailto:tommy@garrettlandsales.com)

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[Government Affairs Report, Paul Durham G.A.D.](#)

## **Governor Martin O'Malley Announces Task Force to Examine Septic Pollution:**

Governor O'Malley established a task force on April 18th to study curbing pollution of the Chesapeake Bay from septic systems, saying he hoped it would help overcome concerns about the legislation he pushed unsuccessfully this year that would have banned large housing developments relying on septic systems.

MAR and many local REALTOR® Boards and Associations, including GCBR, lobbied successfully for the defeat of the legislation. We were also pleased to have the support of our local delegation in the matter.

The Governor's efforts to limit major housing developments using septic systems failed to get out of committee this past legislative session after rural lawmakers, farmers and developers raised an outcry, warning that it would throttle growth and cost jobs in the state's rural and suburban counties. In Garrett County, the proposed law would have essentially halted all new subdivisions with five or more lots that were not served by public sewerage.

The new task force includes representatives from the development and real estate community. MAR will be involved in the work of the task force. We might possibly see follow-up legislation during the 2011 session.

A copy of the executive order can be viewed online at...

<http://www.governor.maryland.gov/executiveorders/01.01.2011.05.pdf>

### **Garrett County Government Faced With Significant Budget Challenges:**

The county's fiscal situation continues to be a concern, especially in light of ongoing and numerous cuts in funding from the state. The same issues apply to local municipal jurisdictions.

Board President Larry Smith and GAD Paul Durham recently sat in on an MAR conference call where a number of experts spoke about three mandates for state government that are and have traditionally been underfunded. These include the state teacher and employee pension system, the transportation trust fund, and the Thornton funding requirements for education. As the state shifts tax monies to these demands they are cutting, among other things, aid to local governments.

The county foresees a significant decrease in revenue over the next few years and additional actions by the State to direct costs to local jurisdictions. The most troubling development is the likelihood that the state might pass on the costs of teacher pensions to the counties, which would result in an approximately \$1 million in extra unfunded expenditures per year on the local level. If the anticipated state funding cuts occur, the county will need to make some serious decisions on how to make up the shortfalls beginning in FY2013.

We recently received information from the county about several proposals under consideration. The ideas are the result of an evaluation of the county's budget and funding forecasts for fiscal years 2013 through 2016. They include potential increases in the hotel rental tax, the local real property transfer and recordation taxes, the admission and amusement tax, the penalty and interest percentage on real property tax due, and the local beer tax.

The Board of Directors is reviewing the information received from the county and is working with other interest groups on the local level to develop a position and response. We are appreciative of the level of communication that the commissioners' office has provided on this matter and anticipate further dialogue with them. Public hearings or changes in the law may be required before some of the proposals can be adopted.

### **Marcellus Shale:**

Don't miss the opportunity to learn more about the Marcellus Shale gas resource at our annual membership meeting on June 30. Ms. Georgy Plaughter, an extension specialist with the WVU Extension Service's Agriculture and Natural Resources Program Unit, will be giving us a presentation on the shale gas drilling issue as they have experienced it in West Virginia.

This presentation should be particularly pertinent. Gas drilling is already occurring just over the state line in neighboring Preston County, between Crellin and Terra Alta. On the local level, Garrett County's extension service continues to maintain an informational web site on the issue at <http://marcellusshale.garrettcounty.org/>

If your buyers have questions concerning Marcellus Shale, they can direct inquiries to either Cheryl DeBerry or Kim Durst at the Garrett County Economic Development office at 301-334-1921. GCBR's Board of Directors has also tasked our Forms Committee to look into the possible need to develop a local disclosure item to cover gas leasing issues.

### **Ridgeline Protection Measure Fails in Planning Commission:**

At its May 4 meeting, the Planning Commission reexamined the proposal to amend the comprehensive plan to include language dealing with ridgeline protection.

When the county's most recent Comprehensive Plan (2008) was originally drafted, the Planning Commission included language recommending measures to address ridgeline protection. Because an insufficient number of Commission members voted in favor of the amendments at its April 6 meeting, the County Commissioners referred the matter back to the Planning Commission for further review.

(excerpt from the May 4 Planning Commission meeting minutes follows)

*"A motion was made to reopen the issue as it was previously presented to amend the Comprehensive Plan, including a new public hearing, to implement changes to the Plan regarding ridgeline protection. Also, all of the comments that were previously received for the first public hearing would be included as part of any new record. The motion failed by a vote of 3 to 4. Commissioner Gatto abstained from voting on this issue since he could be acting on any proposed changes as a County Commissioner.*

*A second motion was made to endorse the Commission's vote taken during the April 6, 2011 meeting that in effect, rejects the proposed changes to the Comprehensive Plan. Four members of the Commission voted for this motion and the remaining three members did not vote.*

*The proposed amendment will not be forwarded to the County Commissioners and the proposed amendments to the Plan will not move forward, since the amendments were not endorsed by the Planning Commission."*

### **County Launches Online Audio Files of Commissioner Meetings:**

Audio files of various county public meetings are now available online through the county's web site. The most recent additions include budget hearings held in Grantsville and Oakland.

<http://garrettcounty.org/Commissioners/publicmeetingArchive.aspx>

The links below take you to the individual files.

#### **Budget Review Public Meeting - April 19, 2011**

[Audio 4-19-2011 Budget Review Public Meeting - Grantsville](#)

[Audio 4-19-2011 Budget Review Public Meeting - Oakland](#)

[FY2012 Proposed Budget](#)

#### **Constant Yield Public Meeting - April 21, 2011**

[Audio 4-21-11 Constant Yield Public Meeting](#)

[Assessable Base vs. Constant Yield Information](#)

#### **NAR Launches Call for Action on 20% Down Payment Rule:**

NAR's Call for Action (CFA) on Qualified Residential Mortgages (QRM) will only be available a short while longer. Could your clients afford a 20% down payment? If new regulations regarding QRMs go into effect this year, that 20% down will become a reality. It is estimated that the average home buyer would need 15 years to save for a down payment of that size and it could have huge impacts on the housing industry.

As of May 24, 21 Senators and 51 House Members have signed on to the letter to regulators asking them to revisit this proposal and replace it with something more reasonable. We expect a few more signers before the end of the sign on period Friday.

The national response rate is currently 9.8%, with just over 79,800 members responding. FPCs, you are only five (that's right FIVE) individuals away from achieving another 100% response rate. Thank you to the states that already have 100% FPC Participation: AL, AK, AR, AZ, CO, CT, DC, DE, FL, GA, GU, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, ND, NE, NH, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VI, VT, WA, WI, WV and WY.

Please take the last few hours that the CFA is open to encourage all of your colleagues to respond:

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#### **2011 Continuing Education Schedule**

**Required courses will be indicated in red.**

**Beginning November 1, 2010, there must be a minimum of 10 students registered for classes to be held.**

**Wed. June 22, 2011 10:00 – 11:30 “Fair Housing” (C)**

**Wed. July 20, 2011 9:00 – 12:00 “MD Legal Update” (A)**

**Wed. Aug. 17, 2011 9:00 – 12:00 “Ethics/Predatory Lending” (D)**

(The MD Ethics course has also been approved by the GCBR Board of Directors to satisfy the NAR Quadrennial Retraining every member must complete every four years to retain membership. Completion of this course satisfies two requirements for GCBR members. Current NAR Cycle 3 is 1/1/09 – 12/31/12)

**Wed. Sept. 21, 2011 9:00 – 12:00 “MREC Agency – Residential” (H)**

**Wed. Oct. 12, 2011 10:00 – 11:30 “Garrett County Real Estate – Zoning, Ordinances & Beyond” (F)**

**Wed. Oct. 26, 2011 9:00 – 12:00 “MD Legal Update” (A)**

**Wed. Nov. 16 2011 10:00 – 11:30 “Part 2 Garrett County Real Estate – Zoning, Ordinances & Beyond”**

**Wed. Nov. 30, 2011 10:00 – 11:30 “Fair Housing” (C)**

**Wed. Dec. 14, 2011 9:00 – 12:00 “Ethics/Predatory Lending (D)**

<u><b>Cost:</b></u> 1.5 hours	\$20.00 (Realtor®)	\$30.00 (non-Realtor®)
3.0 hours	\$30.00 (Realtor®)	\$40.00 (non-Realtor®)

**Registration flyers will be faxed or emailed upon request.**

**As per the Maryland Real Estate Commission, you must be signed in and prepared when the class begins. If you arrive late or leave early, you will not get credit for the class. The Commission accepts no excuses at all.**

Note: There is a \$5.00 charge for any continuing education certificates that have to be reissued.

## **MD Real Estate License Renewal Requirements**

### ***Required Topics for ALL Licensees***

1. Topic D – Ethics and Predatory Lending – 3 clock hours
2. Topic A – Federal, state or local legislative issues – 3 clock hours
3. Topic C – Fair Housing Law – 1.5 clock hours
4. Topic H – MREC – Agency-Residential – 3 clock hours

### ***Total Hour Requirements – 15 clock hours***

Effective October 1, 2008 requires licensees to retain documents for 5 years.

**Providers are now required to enter your completed CE class hours into the Maryland Real Estate Commission database which will now track your completed hours. When you renew your license, the database will search to match completed hours and required topics against your license number and if you have not completed the correct amount of hours, you will not be able to renew your license.**

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## **SentriLock Tips**

**You MUST follow procedure when obtaining a lockbox from the broker and properly borrow the lockbox.**

### **Borrowing a lockbox from the broker:**

- Insert your SentiCard into the lockbox and enter FUNC + 6 + 2 + ENT (this tells the lockbox to load your codes and settings)
- When the lockbox displays the READY light, the member has borrowed the lockbox
- **You must now renew your SentiCard**
- After renewing your SentiCard, the lockbox will continue to hold the agent's codes and settings until the broker clears the agent's settings
- Once you have borrowed a lockbox from the broker, **if you remove the shackle more than 24 hours after borrowing a lockbox, the lockbox will return to using the broker's codes and settings.** (the theory is that once you borrow the lockbox, it should be placed on the listing within the 24 hour period) If this happens, you will need to borrow the lockbox once again.

**Always remember – every time you access a lockbox – to borrow a lockbox, to remove the shackle, to assign a listing to the lockbox, have a showing, etc. always update your SentiCard after using it to do any of these procedures so that all reports are current for you, the listing agent and the broker.**

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### **Maryland Association of REALTORS®**

**REV UP FOR MAR ANNUAL CONFERENCE AND TRADE SHOW—  
REGISTER NOW**

**Tell Congress: 20% Down Payments Put the American Dream Out of Reach Could you or your clients afford a 20% down payment? Can you envision what your prospective client pool will look like if new regulations governing Qualified Residential Mortgages (QRM) take effect this year? Please do your part--TAKE ACTION NOW!**

\*\*\*\*\*

### **National Association of REALTORS®**

The NAR Board of Directors overwhelmingly approved the REALTOR® Party Political Survival Initiative (RPPSI) at its May 14 meeting and to raise NAR dues to \$120, from \$80, to pay for it. Under the initiative, the \$40 in new dues revenue will go to help fund and provide assistance to local, state, and national political and issues campaigns.

Although some of the funds will be used to augment the REALTORS® Political Action Committee, a majority of the funds—73 percent—will be used for bolstering grassroots action. RPAC contributions are still critical, said former NAR President Cathy Whatley, who presented the initiative to the directors.

**2012 NAR dues will be \$120 + \$35 Public Awareness Campaign Assessment = \$155**

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### **Case Studies Interpretation of the Code of Ethics**

CASE STUDIES ARE PULLED FROM “INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL” OF THE NATIONAL ASSOCIATION OF REALTORS®

**Case #2-7: Obligation to Determine Pertinent Facts** (Revised Case #9-13 May, 1988. Transferred to Article 2 November, 1994.)

REALTOR® A, a home builder, showed one of his newly constructed houses to Buyer B. In discussion, the buyer observed that some kind of construction was beginning nearby. He asked REALTOR® A what it was. “I really don’t know,” said REALTOR® A, “but I believe it’s the attractive new shopping center that has been planned for this area.” Following the purchase, Buyer B learned that the new construction was to be a bottling plant and that the adjacent area was zoned industrial.

Charging that the proximity of the bottling plant would have caused him to reject purchase of the home, Buyer B filed a complaint with the Board of REALTORS® charging REALTOR® A with unethical conduct for failing to disclose a pertinent fact. The Grievance Committee referred the complaint for a hearing before a Hearing Panel of the Professional Standards Committee.

During the hearing, REALTOR® A’s defense was that he had given an honest answer to Buyer B’s question. At the time he had no positive knowledge about the new construction. He knew that other developers were planning an extensive shopping center in the general area, and had simply ventured a guess. He pointed out, as indicated in Buyer B’s testimony, that he had prefaced his response by saying he didn’t know the answer to this question.

The Hearing Panel concluded that Buyer B’s question had related to a pertinent fact; that REALTOR® A’s competence required that REALTOR® A know the answer or, if he didn’t know the answer, he should not have ventured a guess, but should have made a commitment to get the answer. The Hearing Panel also noted that although REALTOR® A prefaced his response with “I don’t know,” he had nonetheless proceeded to respond and Buyer B was justified in relying on his response. REALTOR® A was found to have violated Article 2.

**Check us next time on FaceBook!**

**Search for us with Garrett County Board of Realtors(r) and use the link that shows the GCBR Banner in the photo.**

**Become a fan so we can obtain a Username we need 9 more fans!**

# Garrett County Board of REALTORS®

GCBR News Briefs – July 1, 2011

## Membership Update

### New REALTOR® Members:

### New Affiliate Members:

### Drops:

Eric Recker, Railey Realty

### Transfers:

### Changes:

Tom Thumb Pest Control has a new email address:

[customerservice@tomthumbpestcontrol.com](mailto:customerservice@tomthumbpestcontrol.com)

### New Office:

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## Government Affairs Report, Paul Durham G.A.D.

### 20% Down Payment Rule Comment Period Extended:

The federal agencies in charge of defining a Qualified Residential Mortgage (QRM) have extended the public comment period until August 1, 2011. Originally, public comments on the proposed rule were due by June 10, 2011.

NAR is lobbying in opposition to the current proposed rule which would extend the best loan terms only to borrowers who make a 20% down payment. NAR estimates that it would take 9-14 for typical first-time homebuyers to build enough cash reserves to make such a down payment.

Over 190 U.S. Representatives and Senators signed a letter to the federal agencies encouraging them to rethink the 20% down payment requirement.

### GCBR Working with Chamber of Commerce to Review Possible Local Tax Increases:

Garrett County government anticipates significant budget shortfalls beginning in the 2013 fiscal year budget. As they plan for this shortfall, a number of revenue enhancements are under consideration that include a possible increase in the local transfer and recordation taxes, increase in the hotel tax, and an increase in the penalty and interest percentage on real property tax due.

GCBR has taken the position of “we want to learn more” before adopting an official position on any tax increases. We have been reviewing revenue data and looking into the current benefit to the county of the real property sector and our industry generally. In addition, there is a desire to better understand the county’s budget and how the demand for new revenue is being driven.

Stay tuned for more news on this issue.

### **GCBR Involved in PlanMaryland Workgroup:**

The Government Affairs Committee is coordinating our efforts to respond to a new statewide draft planning document entitled “PlanMaryland”. We are working closely with Garrett County government, Allegheny County government, the Greater Cumberland Committee, and our local Chamber of Commerce,

The state’s Department of Planning has been working for several years to increase the authority and oversight that the state has on what have traditionally been locally controlled planning functions. PlanMaryland brings together a number of concepts and calls for combining them under a statewide umbrella of Smart Growth requirements, septic system restrictions, subdivision and land development rules, and rules about where state funds may or may not be used by local jurisdictions.

GCBR has identified several areas of concern. The Plan lacks a reasonable rural component for counties who lack sufficient growth. It calls for Smart Growth prescriptions that are catered to an urban or suburban environment and it fails to consider resort communities like Deep Creek Lake.

The Plan relies on land use trends that were gleaned from data driven by the recent housing bubble and it does not reflect what appears to be a longer term recovery in the housing sector. One of the more troubling conclusions of the Plan is that land development is hurting the sustainability of agriculture. This may be a problem in the state’s suburban counties, but we know this is not a problem locally.

We anticipate formulating formal comments in late July and will keep you posted as the issue develops. The draft PlanMaryland document can be downloaded on the internet at...

<http://plan.maryland.gov/draftPlan/draftPlan.shtml>

MAR is also reviewing the document and has identified many of the same issues that we have. The call for septic restrictions is inconsistent with the recent legislative controversy on the same matter, and it now seems to be tracking in advance of the Governor’s recent executive order calling for a special task force to review the septic issue.

### **Marcellus Shale – documenting buyer concerns:**

As the Marcellus Shale gas extraction issue continues in the county, we have been receiving anecdotal reports of how it is negatively affecting showings and property sales. We may need to adopt a policy position on the matter in the future, so it would be helpful if we had better information on whether or not this is an issue that truly effects our business.

If you encounter a negative buyer reaction to a property that has a Marcellus Shale element to the sale or listing, please send a brief email to GAD Paul Durham outlining the issue. To preserve confidentiality, it is not important to disclose names or specific properties. A brief explanation of what occurred would be very helpful.

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Photo ID Required at Sign-In

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**SentriLock Tips**

**Download an audit log from a lockbox –**

1. Insert your SentriCard into the lockbox. Wait for the CODE light.
2. Enter your PIN + ENT. Wait for the READY light.
3. Press FUNC + 7 + ENT, wait for the REACY light. When the lockbox finishes downloading the Audit Log to your SentriCard, it will display the READY light
4. Remove your SentriCard from the lockbox
5. Return to a computer running the SentriLock Card Utility and renew your SentriCard
6. Use your Web browser to access <http://lockbox.sentrilock.com/lbs> or use the SentriLock Card Utility to log into the REALTOR Lockbox Web site
7. From the Main Menu window, click “Lockboxes” or “My Lockboxes”
8. On the “Lockboxes” window, click the lockbox’s “View Access Log” link

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**Maryland Association of REALTORS®**

**REV UP FOR MAR ANNUAL CONFERENCE AND TRADE SHOW—**  
**[REGISTER NOW](#)**

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**National Association of REALTORS®**

**Update Your Personal NAR Profile**

The site [www.realtor.org](http://www.realtor.org) connects directly with the NAR search program “**Find a REALTOR®**” You’ll want to make sure your NAR membership profile is up-to-date with your designations, the languages you speak, and your niche or specialty so potential consumers can find you when they search for a great match.

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## Case Studies Interpretation of the Code of Ethics

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### **Case #2-12: REALTOR® Buying and Selling to One Another are Still Considered REALTORS® (Revised Case #9-23 May 1988. Transferred to Article 2 November, 1994. Cross-reference Case #1-20.)**

REALTOR® A owned a home which he listed through his own brokerage firm. The property listing was filed with the Multiple Listing Service of the Board. REALTOR® B called REALTOR® A and told him of his interest in purchasing the home for himself. REALTOR® A suggested a meeting to discuss the matter. The two agreed upon terms and conditions and the property was sold by REALTOR® A to REALTOR® B.

A few months later during hard rains, leakage of the roof occurred with resultant water damage to the interior ceilings and side walls. REALTOR® B had a roofing contractor inspect the roof. The roofing contractor advised REALTOR® B that the roof was defective and advised that only a new roof would prevent future water damage.

REALTOR® B then contacted REALTOR® A and requested that he pay for the new roof. REALTOR® A refused, stating that REALTOR® B had a full opportunity to look at it and inspect it. REALTOR® B then charged REALTOR® A with violation of Articles 1 and 2 of the Code of Ethics by not having disclosed that the roof had defects known to REALTOR® A prior to the time the purchase agreement was executed.

At the subsequent hearing, REALTOR® B outlined his complaint and told the Hearing Panel that at no time during the negotiations which followed, did REALTOR® A disclose any defect in the roof. REALTOR® B acknowledged that he had walked around the property and had looked at the roof. He had commented to REALTOR® A that the roof looked reasonably good, and REALTOR® A had made no comment. The roofing contractor, REALTOR® B had employed after the leak occurred, told him that there was a basic defect in the way the shingles were laid in the cap of the roof and in the manner in which the metal flashing on the roof had been installed. It was the roofing contractor's opinion that the home's former occupant could not have been unaware of the defective roof or the leakage that would occur during hard rains.

REALTOR® A told the panel that he was participating only to prove that he was not subject to the Code of Ethics while acting as a principal as compared with his acts as an agent on behalf of others. He pointed out that he owned the property and was a principal, and that REALTOR® B had purchased the property for himself as a principal. The panel concluded that the facts showed clearly that REALTOR® A, the seller, did have knowledge that the roof was defective, and had not disclosed it to REALTOR® B, the buyer. Even though a REALTOR® is the owner of a property, when he undertakes to sell that property he accepts the same obligation to properly represent its condition to members of the public, including REALTORS® who are purchasers in their own name, as he would have if he were acting as the agent of a seller.

The panel concluded that REALTOR® A was in violation of Articles 1 and 2 of the Code.

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**Become a fan!**

# Garrett County Board of REALTORS®

GCBR News Briefs – August 1, 2011

## Membership Update

### New REALTOR® Members:

### New Affiliate Members:

### Drops:

Charlie McLaughlin – Coldwell Banker Deep Creek Realty

### Transfers:

### Changes:

Andrew Orr-Corridor Mortgage Group

101 S. Centre Street

Cumberland, MD 21502

Office: 301-724-5666

Email: [aorr@corridormtg.com](mailto:aorr@corridormtg.com)

### New Office:

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## Government Affairs Report, Paul Durham G.A.D.

### Landowner Education Campaign on Natural Gas Drilling Contracts:

(Excerpt from OAG Press Release) Attorney General Douglas Gansler Announces

Protecting landowners in Western Maryland from the high-pressure sales tactics of natural gas drilling speculators is at the center of an education campaign announced today by Attorney General Douglas F. Gansler. Speculators are seeking to obtain mineral rights in the Maryland portion of the Marcellus Shale, a large rock formation stretching from upstate New York to southwestern Virginia which contains natural gas deposits. Landowners whose properties sit above the Marcellus Shale should know their legal rights and potential risks from leasing their land to energy companies interested in drilling for natural gas using the process known as hydraulic fracturing or “fracking.”

“Fracking poses significant risks to the land and the groundwater beneath it,” said Attorney General Gansler. “Every landowner needs to be armed with accurate knowledge of these risks in order to safeguard his or her legal rights when being asked to lease mineral rights.”

With the expertise of a core legal team assigned by Attorney General Gansler to protect Marylanders from environmental damage and the unscrupulous sales tactics of some energy companies, the Maryland Office of the Attorney General (OAG) has produced and distributed two documents designed to inform and educate landowners about their rights. [Leasing Your Land for Natural Gas Drilling - Tips for the Landowner](#) and the [Dormant Minerals Interest Act -](#)

[Questions and Answers](http://www.oag.state.md.us/) are available to any landowner or interested party at the OAG website: <http://www.oag.state.md.us/>.

Additionally, the OAG is providing legal assistance to Governor Martin O'Malley's Advisory Commission created last month to study the environmental and economic impact of natural gas drilling in the Marcellus Shale formation of Western Maryland. The Governor announced his appointments to the advisory commission today.

### **Governor O'Malley Names Members of the Marcellus Shale Safe Drilling Initiative Advisory Commission:**

Governor Martin O'Malley recently announced members of the newly formed Marcellus Shale Advisory Commission. As mandated by the Governor's June 6, 2011, [Executive Order on the Marcellus Shale Safe Drilling Initiative](#), the Secretaries of the Departments of the Environment and Natural Resources, in consultation with the Advisory Commission, will study issues related to natural gas exploration and production in the Marcellus Shale in Maryland. Garrett County is well represented on the committee. Of the 14 members on the commission, at least 6 are from Garrett County.

**The Advisory Commission's first meeting will be held at 9:30 a.m. on Thursday, August 4, 2011, at the Lakeside Visitors Center at Rocky Gap State Park and will be open to public.**

#### **Advisory Commission Membership:**

Chair - David Vanko, Ph.D., geologist and current Dean of The Jess and Mildred Fisher College of Science and Mathematics at Towson University.

**Senator George Edwards**

Delegate Heather Mizeur

**Garrett County Commissioner James Raley**

Allegheny Commissioner William Valentine

**Oakland Mayor Peggy Jamison**

**Shawn Bender**, division manager at the Beitzel Corporation and president of the Garrett County Farm Bureau

Steven M. Bunker, director of Conservation Programs, Maryland Office of the Nature Conservancy

**John Fritts**, president of the **Savage River Watershed Association** and director of development for the Federation of American Scientists

Jeffrey Kupfer, senior advisor, Chevron Government Affairs

Dominick E. Murray, deputy secretary of the Maryland Department of Business and Economic Development

**Paul Roberts**, a Garrett County resident and co-owner of Deep Creek Cellars winery

Nick Weber, chair of the Mid-Atlantic Council of Trout Unlimited

Harry Weiss, Esquire, partner at Ballard Spahr

### **GCBR Involved in PlanMaryland Workgroup:**

As reported in our July newsletter, GCBR is coordinating our efforts to respond to a new statewide draft planning document entitled "PlanMaryland". We are working closely with Garrett County government, Allegheny County government, the Greater Cumberland Committee, and the Allegheny and Garrett Chambers of Commerce. The comments and discussions to date show many common areas of concern.

The state's Department of Planning has been working for several years to increase the authority and oversight that the state has on what have traditionally been locally controlled planning

functions. PlanMaryland brings together a number of concepts and calls for combining them under a statewide umbrella of Smart Growth requirements, septic system restrictions, subdivision and land development rules, and rules about where state funds may or may not be used by local jurisdictions.

GCBR has identified several areas of concern. Your Board of Directors will be voting on a possible position on the Plan at its August 3 meeting.

The draft PlanMaryland document can be downloaded on the internet at...

<http://plan.maryland.gov/draftPlan/draftPlan.shtml>

### **Marcellus Shale – documenting buyer concerns:**

As the Marcellus Shale gas extraction issue continues in the county, we have been receiving anecdotal reports of how it is negatively affecting showings and property sales. We may need to adopt a policy position on the matter in the future, so it would be helpful if we had better information on whether or not this is an issue that truly effects our business.

If you encounter a negative buyer reaction to a property that has a Marcellus Shale element to the sale or listing, please send a brief email to GAD Paul Durham outlining the issue. To preserve confidentiality, it is not important to disclose names or specific properties. A brief explanation of what occurred would be very helpful.

### **Emergency Mortgage Assistance (EMA) Program:**

The Maryland Department of Housing and Community Development (DHCD) has received funding from the U.S. Department of Housing and Urban Development (HUD) through their Emergency Homeowner Loan Program (EHLP).

***The Emergency Mortgage Assistance (EMA) program is designed to assist homeowners who are facing foreclosure due to involuntary unemployment or loss of significant income.***

***Are you 3 or more months late on your mortgage? Is your home in imminent danger of foreclosure?***

**The EMA program may be able to help you. These are the steps you take:**

1. Go through the [Pre-Application Eligibility Checklist](#) to see if you may be eligible.
2. Contact an approved [Prime Counseling Agency](#) from the list provided. They can assist you in completing an EMA application if you appear eligible, and help you pursue other avenues of assistance if you do not qualify for EMA.

### **How does the program work?**

If you meet the initial pre-application requirements for the EMA program, you will need to compile documentation for the application.

[\(Click Here for the Required Documentation Checklist\).](#)

After all documentation is compiled, the application will be submitted to the DHCD, who will review the application and make the final determination. If approved for an EMA loan, the homeowner's contribution would be 31 percent of their current gross income. EMA will pay the remaining balance of the monthly payments until the first of the following events occur:

- Payments reach the maximum determined amount (including arrears);
- The maximum of 24 monthly payments have been made;
- Homeowner becomes re-employed at or within 15% of their previous income;
- Homeowner is late or defaults on a monthly payment;
- Homeowner fails to report a change in income;
- The property is sold or is no longer the principal residence.

#### **What are the terms of repayment?**

The EMA loan is in the form of a zero interest loan with no payments for five years after the end of the Assistance Period. From that point, so long as all loan conditions are maintained, the loan balance due shall decline by 20 percent annually until the Note has a zero balance after five years. If homeowner fails to meet any of the conditions, then the applicable balance of the loan at that time will become payable.

#### **Forms and Documentation**

- [Complete Emergency Mortgage Assistance Application](#)

#### **Individual Forms**

- [Pre-Application Eligibility Checklist](#)
- [Required Documentation Checklist](#)
- [Emergency Mortgage Assistance Application](#)
- [Privacy Act Statement](#)
- [Third Party Authorization and Agreement to Release](#)
- [Homeowner Affidavit](#)
- [Zero Income Affidavit](#)
- [Sample Hardship Letter](#)
- [Sample Household Budget](#)

#### **Need more information:**

- [See our Frequently Asked Questions](#)
- [Contact a Housing Counseling Agency](#)
- Call the **HOPE Hotline** at 1-877-462-7555

\*\*\*\*\*

### **2011 Continuing Education Schedule**

Photo ID Required at Sign-In

**Required courses will be indicated in red.**

**There must be a minimum of 10 students registered for classes to be held.**

**Wed. Aug. 17, 2011 9:00 – 12:00 “Ethics/Predatory Lending” (D)**

(The MD Ethics course has also been approved by the GCBR Board of Directors to satisfy the NAR Quadrennial Retraining every member must complete every four years to retain membership. Completion of this course satisfies two requirements for GCBR members. Current NAR Cycle 3 is 1/1/09 – 12/31/12)

**Wed. Sept. 21, 2011 9:00 – 12:00 “MREC Agency – Residential” (H)**

**Wed. Oct. 12, 2011 10:00 – 11:30 “Garrett County Real Estate – Zoning, Ordinances & Beyond” (F)**

**Wed. Oct. 19, 2011 9:00 – 12:00 “MREC Broker, Branch Office Managers and Team Leader Supervision” (I)**

(Required for brokers, branch office managers and team leaders every 4 years and an elective for all other licensees)

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**Wed. Nov. 30, 2011 10:00 – 11:30 “Fair Housing” (C)**

**Wed. Dec. 14, 2011 9:00 – 12:00 “Ethics/Predatory Lending (D)**

<b>Cost:</b>	<b>1.5 hours \$20.00 (Realtor®)</b>	<b>\$30.00 (non-Realtor®)</b>
	<b>3.0 hours \$30.00 (Realtor®)</b>	<b>\$40.00 (non-Realtor®)</b>

**Registration flyers will be faxed or emailed upon request.**

**As per the Maryland Real Estate Commission, you must be signed in and prepared when the class begins. If you arrive late or leave early, you will not get credit for the class. The Commission accepts no excuses at all.**

Note: There is a \$5.00 charge for any continuing education certificates that have to be reissued.

## **MD Real Estate License Renewal Requirements**

### ***Required Topics for ALL Licensees***

1. Topic D – Ethics and Predatory Lending – 3 clock hours
2. Topic A – Federal, state or local legislative issues – 3 clock hours
3. Topic C – Fair Housing Law – 1.5 clock hours
4. Topic H – MREC – Agency-Residential – 3 clock hours (once every 4 years)

### ***Brokers, Office Managers, Team Leader, Associate Brokers (if in a supervisory role)***

Topic I – MREC Required Supervision Course – 3 clock hours (once every 4 years)

### ***Total Hour Requirements – 15 clock hours***

Effective October 1, 2008 requires licensees to retain documents for 5 years.

**Providers are now required to enter your completed CE class hours into the Maryland Real Estate Commission database which will now track your completed hours. When you renew your license, the database will search to match completed**

hours and required topics against your license number and if you have not completed the correct amount of hours, you will not be able to renew your license.

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## Maryland Association of REALTORS®

MAR Annual Conference—September 12-14. [ONLINE REGISTRATION](#) extended until August 31. Register for classes, golf, and Installation Banquet today

[GRI FALL SCHEDULE AVAILABLE](#)--Get back to school and ... back to earning.

\*\*\*\*\*

## National Association of REALTORS®

### REALTORS® Core Health Insurance Program

NAR is pleased to introduce REALTORS® Core Health Insurance (RCHI). RCHI offers affordable, guaranteed-acceptance, Limited Medical insurance plans exclusively for NAR members aged 18-65.

[Get a Quote](#)

[RCHI Overview](#)

[Who Can Benefit](#)

[Major Medical vs. Limited Medical](#)

REALTORS® Core Health Insurance (RCHI) provides guaranteed-issue, affordable **Limited Medical** plans which are **exclusively designed and priced** specifically for NAR members. Simply put, RCHI provides coverage for your everyday healthcare needs – helping to provide a safety net for people who do not have the luxury of being covered by a comprehensive health insurance plan.

#### Benefits and Highlights of RCHI\*:

- It's guaranteed-acceptance\*\* – No medical questions/exams required.
- It's low cost – Plans start as low as \$70.69 per month.
- **Three plan types** are available (Physician, NAR Value and NAR Platinum)
- You have freedom to choose any provider, with the option of a PPO network, for added savings, in certain states.
- The plans provide **assignable benefits** – the medical provider bills the insurance company directly.

- Next day coverage is available.
- **No contract** needed. Plans have a 10-day money back guarantee.
- Benefits include: doctor office visits, wellness visits, emergency room benefits, surgery benefits, a prescription discount card and more!
- Underwritten by United States Fire Insurance Company, rated A (“Excellent”) by A.M. Best

\* Subject to limitations and exclusions.

\*\* Based on eligibility (age, member of NAR, and state availability)

### Who Can Benefit?

NAR Members who will benefit from RCHI include those who:

- **Cannot afford** – or are struggling to afford – major medical (comprehensive) health insurance.
- Have tried to get health insurance and have been **turned down**.
- Have a **pre-existing condition** that makes traditional insurance coverage expensive or difficult to obtain, but that is covered by RCHI.
- Have **major medical insurance with very high deductibles**, and who could use an extra layer of coverage to assist with everyday healthcare costs.

Note: There is a 12-month condition limitation on all hospital or surgical related expenses.

### Major Medical vs. Limited Medical

It is important to understand the difference between Major Medical (comprehensive coverage) and Limited Medical insurance. **Major Medical** provides catastrophic coverage and high limits of coverage (typically \$1 million or more). **Limited Medical** (RCHI) provides the guarantee of affordable insurance but limits its coverage to everyday illnesses and accidents. In addition, the maximum benefits paid in each medical situation are capped. Unfortunately NAR is unable to offer a group Major Medical plan at this time. For more information on this issue, please [click here. View a short video to learn more about RCHI >](#)

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### Case Studies Interpretation of the Code of Ethics

CASE STUDIES ARE PULLED FROM “INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL” OF THE NATIONAL ASSOCIATION OF REALTORS®

### Case #1-31: Protecting Client’s Interest in Auction Advertised as “Absolute”

(Adopted May, 2005. Cross-referenced with Case #12-18.)

Seller T, a widowed elementary school teacher in the Midwest inherited a choice parcel of waterfront property on one of the Hawaiian islands from a distant relative. Having limited financial resources, and her children's college education to pay for, she concluded that she would likely never have the means to build on or otherwise enjoy the property. Consequently, she decided to sell it and use the proceeds to pay tuition and fund her retirement.

Seller T corresponded via the Internet with several real estate brokers, including REALTOR® Q whose Web site prominently featured his real estate auction services. An exchange of email followed. REALTOR® Q proposed an absolute auction as the best way of attracting qualified buyers and ensuring the highest possible price for Seller T. Seller T found the concept had certain appeal but she also had reservations. "How do I know the property will sell for a good price?" she emailed REALTOR® Q. REALTOR® Q responded "You have a choice piece of beachfront. They aren't making any more of that, you know. It will easily bring at least a million five hundred thousand dollars." Seller T acquiesced and REALTOR® Q sent her the necessary contracts which Seller T executed and returned.

Several days prior to the scheduled auction, Seller T decided to take her children to Hawaii on vacation. The trip would also afford her the chance to view the auction and see, firsthand, her future financial security being realized.

On the morning of the auction only a handful of people were present. Seller T chatted with them and, in casual conversation, learned that the only two potential bidders felt the property would likely sell for far less than the \$1,500,000 REALTOR® Q had assured her it would bring. One potential buyer disclosed he planned to bid no more than \$250,000. The other buyer wouldn't disclose an exact limit but said he was expecting a "fire sale."

Seller T panicked. She rushed to REALTOR® Q seeking reassurance that her property would sell for \$1,500,000. REALTOR® Q responded, "This is an auction. The high bidder gets the property." Faced with this dire prospect, Seller T insisted that the auction be cancelled. REALTOR® Q reluctantly agreed and advised the sparse audience the seller had cancelled the auction.

Within days, two ethics complaints were filed against REALTOR® Q. Seller T's complaint alleged that REALTOR® Q had misled her by repeatedly assuring her-essentially guaranteeing her-that her property would sell for at least \$1,500,000. By convincing her she would realize that price – and by not clearly explaining that if the auction had proceeded the high-bidder-at whatever price-would take the property, Seller T claimed her interests had not been adequately protected, and she had been lied to. This, Seller T concluded, violated Article 1.

The second complaint, from Buyer B, related to REALTOR® Q's pre-auction advertising. REALTOR® Q's ad specifically stated "Absolute Auction on July 1." Nowhere in the ad did it mention that the auction could be cancelled or the property sold

beforehand. “I came to bid at an auction,” wrote Buyer B, “and there was no auction nor any mention that it could be cancelled.” This advertising, Buyer B’s complaint concluded, violated Article 12’s “true picture” requirement.

Both complaints were forwarded by the Grievance Committee for hearing. At the hearing, REALTOR® Q defended his actions by noting that comparable sales supported his conclusion that Seller T’s property was worth \$1,500,000. “That price was reasonable and realistic when we entered the auction contract, and it’s still reasonable today. I never used the word ‘guarantee;’ rather I told her the chances of getting a bid of \$1,500,000 or more was very good.” “But everyone knows,” he added, “that anything can happen at an auction.” If Seller T was concerned about realizing a minimum net return for the sale, she could have asked that a reserve price be established.

Turning to Buyer B’s claim of deceptive advertising, REALTOR® Q argued that his ad had been clear and accurate. There was, he stated, an auction scheduled for July 1 and it was intended to be an absolute auction. “The fact that it was advertised as ‘absolute’ doesn’t mean the property can’t be sold beforehand-or that the seller can choose not to sell and cancel the auction. Ads can’t discuss every possibility. It might have rained that day. Should my ad have cautioned bidders to bring umbrellas?” he asked rhetorically.

The Hearing Panel concluded that while REALTOR® Q had not expressly guaranteed Seller T her property would sell for \$1,500,000, his statements had led her to that conclusion and after realizing Seller T was under that impression, REALTOR® Q had done nothing to disabuse her of the misperception. Moreover, REALTOR® Q had taken no steps to explain the auction process to Seller T, including making her aware that at an absolute auction the high bidder-regardless of the bid-would take the property. REALTOR® Q’s actions and statements had clearly not protected his client’s interests and, in the opinion of the Hearing Panel, violated Article 1.

Turning to the ad, the Hearing Panel agreed with REALTOR® Q’s position. There had been an absolute auction scheduled-as REALTOR® Q had advertised-and there was no question but that REALTOR® Q had no choice but to cancel the auction when he had been instructed to do so by his client. Consequently, the panel concluded REALTOR® Q had not violated Article 12.

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**Check us next time on FaceBook!**

**Search for us with Garrett County Board of Realtors(r) and use the link  
that shows the GCBR Banner in the photo.  
Become a fan!**

# Garrett County Board of REALTORS®

GCBR News Briefs – September 1, 2011

## Membership Update

### New REALTOR® Members:

Andrew Orr – Offlake Realty & Rentals

### New Affiliate Members:

### Drops:

Heather Christner – Goodfellow Real Estate Services, LLC

Cindy Wolf – Goodfellow Real Estate Services, LLC

### Transfers:

### Changes:

### New Office:

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## Government Affairs Report, Paul Durham G.A.D.

### Marcellus Shale – documenting buyer concerns:

Since we put out a request in our July 2001 newsletter, there have been no reported cases of buyer concerns dealing with the Marcellus Shale issue.

As the Marcellus Shale gas extraction issue continues in the county, we have been receiving anecdotal reports of how it is negatively affecting showings and property sales. We may need to adopt a policy position on the matter in the future, so it would be helpful if we had better information on whether or not this is an issue that truly effects our business.

If you encounter a negative buyer reaction to a property that has a Marcellus Shale element to the sale or listing, please send a brief email to GAD Paul Durham outlining the issue. To preserve confidentiality, it is not important to disclose names or specific properties. A brief explanation of what occurred would be very helpful.

### Garrett County Commissioners Create Efficiency Task Force:

At their August 23 tax hearing, the County Commissioners voted unanimously to create an Efficient Task Force made up of county employees and local citizens to investigate ways that the county can be more efficient in the delivery of its services and use of tax monies. The motion specified that it be appointed by October 1, 2001, begin meeting by October 21 and issue a report by January 31.

The commissioners indicated they would not consider tax increases until such time as they received and reviewed the report of the task force.

## **Garrett County Commissioners Adopt Revised Economic Development Strategic Plan:**

The county commissioners recently adopted a revised economic development plan for the county. The planning for this document started in 2010 when five major Garrett County institutions, including both public agencies and private nonprofits, initiated a planning process focused on the broad economic development of Garrett County, Maryland. The five major institutions organized into an executive committee that included representatives from the Economic Development Department of Garrett County, the Garrett County Development Corporation, the Garrett County Chamber of Commerce, Garrett County Community Action Committee, and Garrett College.

This new plan includes a number of specific actions that the county should take to further economic development and sustainable local economy and communities. One aspect of the document is a call for county government to develop a specific plan to phase-in countywide zoning.

The plan is available online through the county at...

[http://garrettcountry.org/Commissioners/Strategic\\_Plan.pdf](http://garrettcountry.org/Commissioners/Strategic_Plan.pdf)

## **News from MAR: Signs in State Highway Right-of-Ways HB0289 and SB410**

Although the state and local governments may have confiscated illegally placed signs in the past, the government entities did not have authority to fine individuals. Now, the State and local governments will be able to fine violators \$25 per sign. As originally introduced, this legislation would have fined violators \$100 per sign, but MAR worked with the General Assembly to lower the fine amount.

In addition, MAR also requested an amnesty period before any program could begin fining violators. Under the law, if the State Highway Administration or local government chooses to implement a sign removal program, those programs would be prohibited from issuing fines for the first three months after initiating a program. This provision is intended to give violators ample notice of the new enforcement provisions so they can avoid future fines.

Finally, to help you identify which roads are state highways click on the link below. This link will take you to a web page that will ask you to enter a year and a county. Choose the most recent year and the specific county in which you are interested. The site will then display information, including a map, about the roads located in that county.

<http://www.roads.maryland.gov/pages/hlr.aspx?PageId=832>

This bill prohibits the placement or maintenance of signs on State highway rights-of-way without authorization from the State Highway Administration (SHA) and establishes a civil penalty of \$25 per commercial sign for violations. SHA and local jurisdictions retain civil penalty payments they collect. SHA, a law enforcement officer, or a local government may remove and destroy any unauthorized signs without a court order. SHA or a local government may seek an injunction against further commercial sign violations. The District Court has exclusive original jurisdiction for any civil cases arising from violations. The bill repeals a provision limiting the duration of election-related signs along State highways and deletes an obsolete reporting requirement.

**For enforcement purposes, the presence of any sign in a State highway right-of-way is evidence that it was placed or maintained at the direction of, or with the consent and approval of, the party whose name, business, location, or product representation is**

advertised on it. During the first three months after initiating a sign removal program, SHA or a local jurisdiction may only issue warnings. Enforcement must be on a viewpoint and content neutral basis.

### **MAR Opposes 20% Downpayment Rule:**

As proposed, the Credit Risk Retention Rule would impose significant barriers to homebuying while failing to improve credit risk for homebuyers in meaningful ways. In fact, the 20% downpayment provision would make nearly 20.7% of borrowers ineligible for an affordable mortgage loan while only reducing default rates by 0.6%. For high cost housing states like Maryland, the effect of the rule would be even more severe.

MAR estimates that it would take the average Maryland family nearly 22 years to save enough to meet the rule's current downpayment requirements. And that's just the downpayment provision. The rule contains other onerous provisions too, such as: lower debt-to-income ratio requirements; rigid credit standards; and even higher equity requirements (25%) for refinancing.

Click on the [Link to Article](#) on the front page to see MAR's comment letter.

### **Marcellus Shale Safe Drilling Initiative Advisory Commission Meets:**

GAD Paul Durham attended the first meeting of the Advisory Commission on August 4. The first part of the meeting dealt with logistic and organizational details, and the second part dealt mostly with ways that state and local jurisdictions might be able to secure revenue and funding for the work of the Commission, particularly any studies or research, or to mitigate or respond to the effects of gas drilling.

All three of our county commissioners were present as well as Senator George Edwards and Delegate Wendell Beitzel.

Approximately 50 to 60 members of the public were present. All of the meetings are public sessions and the Commission is very open to members of the public attending to listen to the deliberations. Draft minutes of the meeting are available online at

[http://www.mde.state.md.us/programs/Land/mining/marcellus/Documents/Minutes\\_August4\\_meeting.pdf](http://www.mde.state.md.us/programs/Land/mining/marcellus/Documents/Minutes_August4_meeting.pdf)

The next Advisory Commission's first meeting will be held on October 3<sup>rd</sup> or 4<sup>th</sup>, time and location TBD.

***The Commission is required to submit an initial report (with Dept. of the Environment & Dept. of Natural Resources) to the Governor, Senate President, & House Speaker on advisability of legislation to establish sources of revenue to fund State activities concerning hydraulic fracturing and standards of liability for damages by Dec. 31, 2011.***

### **Advisory Commission Membership:**

Chair - David Vanko, Ph.D., geologist and current Dean of The Jess and Mildred Fisher College of Science and Mathematics at Towson University.

**Senator George Edwards**

Delegate Heather Mizeur

**Garrett County Commissioner James Raley**

Allegany Commissioner William Valentine

**Oakland Mayor Peggy Jamison**

**Shawn Bender**, division manager at the Beitzel Corporation and president of the Garrett County Farm Bureau  
Steven M. Bunker, director of Conservation Programs, Maryland Office of the Nature Conservancy  
**John Fritts**, president of the **Savage River Watershed Association** and director of development for the Federation of American Scientists  
Jeffrey Kupfer, senior advisor, Chevron Government Affairs  
Dominick E. Murray, deputy secretary of the Maryland Department of Business and Economic Development  
**Paul Roberts**, a Garrett County resident and co-owner of Deep Creek Cellars winery  
Nick Weber, chair of the Mid-Atlantic Council of Trout Unlimited  
Harry Weiss, Esquire, partner at Ballard Spahr

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## **Maryland Association of REALTORS®**

**FTC's new Mortgage Acts and Practices – Advertising Rule (“Rule”)** imposes requirements to those who provide information about mortgage credit products to consumers **[READ DETAILS OF RULE.](#)**

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### **Case Studies Interpretation of the Code of Ethics**

CASE STUDIES ARE PULLED FROM “INTERPRETATIONS OF THE CODE OF ETHICS AND ARBITRATION MANUAL” OF THE NATIONAL ASSOCIATION OF REALTORS®

**Case #1-1: Fidelity to Client** (Originally Case #7-1. Revised May, 1998. Transferred to Article 1 November, 1994.)

Client A complained to a Board of REALTORS® that two of its members, REALTORS® B and his sales associate, REALTOR-ASSOCIATE® C, had failed to represent the client's interests faithfully by proposing to various prospective buyers that a price less than the listed price of a house be offered. His complaint specified that REALTOR® B, in consultation with him, had agreed that \$137,900 would be a fair price for the house, and it had been listed at that figure. The complaint also named three different prospective buyers who had told Client A that while looking at the property, REALTOR-ASSOCIATE® C, representing REALTOR® B, when asked the price had

said, “It’s listed at \$137,900, but I’m pretty sure that an offer of \$130,000 will be accepted.”

REALTOR® B and REALTOR-ASSOCIATE® C were notified of the complaint and requested to be present at a hearing on the matter scheduled before a Hearing Panel of the Board’s Professional Standards Committee.

During the hearing, REALTOR® B confirmed that he had agreed with Client A that \$137,900 was a fair price for the house, and that it was listed at that figure. He added that he had asked for a 90 day listing contract as some time might be required in securing the full market value. Client A had agreed to do this but had indicated that he was interested in selling within a month even if it meant make some concession on the price. The discussion concluded with an agreement on listing at \$137,900 and with REALTOR® B agreeing to make every effort to get that price for Client A.

REALTOR-ASSOCIATE® C said in the hearing that REALTOR® B had repeated these comments of Client A and he, REALTOR-ASSOCIATE® C, had interpreted them as meaning that an early offer of about 10 percent less than the listed price would be acceptable to the seller, Client A. Questioning by the Hearing Panel established that neither REALTOR® B nor REALTOR-ASSOCIATE® C had been authorized to quote a price other than \$137,900.

It was the Hearing Panel’s conclusion that REALTOR® B was not in violation of Article 1 since he had no reason to know of REALTOR-ASSOCIATE® C’s actions. The panel did find REALTOR-ASSOCIATE® C in violation of Article 1 for divulging his knowledge that the client was desirous of a rapid sale even if it meant accepting less than the asking price. The panel noted that such a disclosure was not in the client’s best interest and should never be made without the client’s knowledge and consent.

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**Check us next time on FaceBook!**

**Search for us with Garrett County Board of Realtors(r) and use the link  
that shows the GCBR Banner in the photo.  
Become a fan!**

# Garrett County Board of REALTORS®

GCBR News Briefs – October 1, 2011

## Membership Update

### New REALTOR® Members:

Alan “Leigh” Clements

### New Affiliate Members:

### Drops:

Erin Strubin – Railey Realty

Sharon Blank – Railey Realty

### Transfers:

### Changes:

### New Office:

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[Government Affairs Report, Paul Durham G.A.D.](#)

## Marcellus Shale Gas Issue – State Commission to Meet in Garrett County on October 7:

Governor O'Malley's Marcellus Shale Safe Drilling Initiative Advisory Commission is scheduled to meet next in Garrett County on Oct. 7 in Room CE-224 (the Continuing Education Building Lecture Hall) at Garrett College in McHenry. The meeting is currently scheduled to start at 1 p.m. and run until around 4 p.m.

According to reports, state Department of the Environment personnel are preparing briefings on liability and revenue issues. The meeting will be the second one for the committee following the initial meeting at Rocky Gap in early August.

The meeting is open to the public.

## Upcoming Marcellus Shale Gas Event:

Next **Commissioners' Advisory Committee Meeting: CHANGED:**

Tuesday, October 25, 2011

4:30 pm Garrett Co. Health Department 1st floor conference room, 1025 Memorial Dr Oakland, Maryland 21550

## PlanMaryland:

The Maryland Department of Planning recently posted a draft statewide comprehensive plan entitled "PlanMaryland" for public comment. The plan drew much controversy when it was released, especially from rural counties that viewed it as stifling desperately needed growth and imposing state mandates on what has been traditionally the authority of local jurisdictions (i.e. planning and zoning functions).

GCBR coordinated our response to the plan with Garrett County government and a bi-county (Garrett and Allegany) coalition led by The Greater Cumberland Committee. We are encouraged that many of the issues identified by GCBR formed the basis for some county comments and those of interested organizations.

The Dept. of Planning recently released Version 2 of the plan and is conducting a 60-day public comment period. GCBR is reviewing the revisions and considering whether additional comments are warranted.

Copies of the plans are available by email, please contact our Government Affairs Director Paul Durham at [pdurham@cebridge.net](mailto:pdurham@cebridge.net) and he will email you a copy.

Following is a copy of the letter sent by MAR commenting on the plan:



August 31, 2011

The Honorable Richard Hall  
Secretary  
Maryland Department of Planning  
301 West Preston Street  
Baltimore, Maryland 21201-2365

Dear Secretary Hall,

The Maryland Association of REALTORS® (MAR) appreciates the outreach effort by the Maryland Department of Planning (hereinafter the "Department") and is pleased to offer the following input regarding PlanMaryland. Our initial comments are general observations regarding the initial plan. MAR understands the Department will be releasing a revised draft on which MAR will provide more specific comments.

By way of background, MAR's 24,000 REALTOR® members work with buyers and sellers in 40,000-60,000 real estate transactions each year. MAR recognizes that each client has particular needs that are often reflected by the unique communities in which they reside. Because local communities vary so much in Maryland, and because even neighborhoods vary greatly within those communities, MAR believes strongly that planning and development decisions must remain with the local governments that best understand the distinctive needs of these communities and how best to help them thrive. Accordingly, MAR would like to make some general points regarding PlanMaryland.

**1. Place Designation Process**

- a. **Initial State Designation:** MAR is pleased that the Department will not move forward with the "Initial State Designations." MAR believed the initial designation process would have usurped local planning authority. Even though the initial designation would have been based on established programs, the State would still have been in charge of "drawing the lines."
- b. **Maintain Flexibility:** MAR believes that the Growth Print established by the plan should not be de facto boundary lines establishing where growth may and may not occur. Such an action would undermine local community investment in Priority Funding Areas (PFAs) that may not be favored for future growth and investment under PlanMaryland.
- c. **Conflicting/Redundant Designations:** MAR is concerned that some designations appear to have the same criteria, or may conflict with different designation categories. MAR is unclear, for example, how development will occur in GrowthPrint areas that are also classified as "Lands Subject to Climate Change."



2. **No Certainty for Reaching Growth/Density Capacity**

- a. **Expedited Review for Development:** MAR is pleased that PlanMaryland notes the need for "expedited review of proposals" for Growth Print Areas. Unfortunately, the State and PlanMaryland may have no control over whether an expedited review may occur. PlanMaryland seems to have more control over preventing growth than for ensuring growth.
- b. **Conflicting Designations:** MAR is also unclear how some of the conflicting designations could undermine a GrowthPrint Area's development capacity.
- c. **Other Factors Affect Growth Capacity:** MAR believes that many factors influence growth beyond comprehensive plans and zoning and permitting decisions. Economic factors, crime, schools, housing choices, Adequate Public Facilities Ordinances (APFO) and other general "quality of life" issues may have as much influence on growth as a master plan or zoning classification. As a result, MAR is very concerned that efforts to redirect growth can unintentionally stop growth because new growth areas fail to attract planned densities for reasons unrelated to PlanMaryland.
- d. **More Clearly Articulate Need for Development Capacity:** MAR believes PlanMaryland should more clearly acknowledge the need to maintain an adequate capacity of developable land to accommodate projected demand in a timely manner. Redevelopment can be costly and time consuming and make many projects unworkable. How much of the future growth in Maryland does the state realistically expect to be achieved through redevelopment?

3. **Extraneous Policy Goals of PlanMaryland**

- a. **Eliminate Tangential Policy Goals:** Throughout PlanMaryland, there are policy objectives/goals/comments that seem tangential to the fundamental questions of growth control. PlanMaryland speaks of policies to address: the "current foreclosure crisis"; the consumption of health foods in schools; promoting energy efficiency and consumption of renewable energy; protection against invasive species and other pests; and supporting "social sustainability." Many of these concepts appear tangential to the fundamental decisions about where growth is located and how it is approved.

MAR appreciates the chance to offer these initial comments and looks forward to giving more specific feedback regarding the revised plan.

Sincerely,

*William Castelli*

William Castelli  
Vice President of Government Affairs

## **News from MAR – Annapolis Considering Growth, Septic and Lead Paint Changes:**

Although the Maryland General Assembly only meets for 90 days during the winter months, the Legislative Branch doesn't hibernate during the summer months. Often, the legislative branch and State Agencies hold "summer studies" and "task forces" where they explore important policy issues. Many times these task forces make policy recommendations that eventually become legislation.

For that reason, the Maryland Association of REALTORS® (MAR) pays close attention to these task forces, and this year there are a number that could propose significant challenges for Maryland real estate.

First, the Governor created the "[Task Force on Sustainable Growth and Wastewater Disposal](#)" which will look into the nitrogen pollution caused by septic systems and make policy recommendations regarding how to deal with that pollution. The Task Force will consider prohibitions against future construction using septic systems, similar to legislation proposed by the Governor last session ([HB 1107](#)), as well as improvements to current programs dealing with waste water treatment plants (sewered systems). This group continues to gather information but is expected to make its first policy recommendations in October.

Second, the Maryland Department of Environment (MDE) Lead Summer Study will be examining ways to improve the Maryland Lead Poisoning Prevention Program (LPPP). The current program focuses on pre- 1950 rental property and owner-occupied property. Already suggestions have been made that all pre-1978 residential property for sale should be required to have a mandatory lead paint inspection. Another suggestion recommends mandatory clearance inspections after a contractor works in an owner-occupied property containing lead paint.

Finally, the Maryland Department of Planning (MDP) has proposed [PlanMaryland](#) which seeks to strengthen the Smart Growth Program and further limit where new growth will occur in Maryland.

Individually, each of these proposals will impact housing choice and affordability. Taken together, the recommendations coming out of these separate groups could have a much more serious impact on housing in Maryland. MAR will continue to work with these groups and educate them about the significant and potentially negative impact these proposals may have on homeowners and buyers.

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### **[2011 Continuing Education Schedule](#)**

Photo ID Required at Sign-In

**[Required courses will be indicated in red.](#)**

**There must be a minimum of 10 students registered for classes to be held.**

**Wed. Oct. 12, 2011    10:00 – 11:30    “Garrett County Real Estate – Zoning, Ordinances & Beyond” (F)**

**Wed. Oct. 19, 2011    9:00 – 12:00    “MREC Broker, Branch Office Managers and Team Leader Supervision” (I)**

(Required for brokers, branch office managers and team leaders every 4 years and an elective for all other licensees)

**Wed. Oct. 26, 2011 9:00 – 12:00 “MD Legal Update” (A)**

**Wed. Nov. 16 2011 10:00 – 11:30 “Part 2 Garrett County Real Estate – Zoning, Ordinances & Beyond”**

**Wed. Nov. 30, 2011 10:00 – 11:30 “Fair Housing” (C)**

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**Wed. Feb. 15, 2012 9:00 – 12:00 “MD Legal Update” (A)**

**Wed. Feb. 22, 2012 10:00 – 11:30 “Garrett Co. Real Estate – Zoning, Ordinances & Beyond (F)**

**Wed. Mar. 14, 2012 10:00 – 11:30 “Fair Housing” (C)**

**Wed. Mar. 28, 2012 10:00 – 11:30 “Part 2 Garrett C. Real Estate – Zoning, Ordinances & Beyond” (F)**

**Wed. Apr. 11, 2012 9:00 – 12:00 “MD Code of Ethics/Predatory Lending” (D)**

**Wed. Apr. 18, 2012 10:00 – 11:30 “Risk Management” (F)**

**Cost:** 1.5 hours \$20.00 (Realtor®)      \$30.00 (non-Realtor®)  
3.0 hours \$30.00 (Realtor®)      \$40.00 (non-Realtor®)

**Registration flyers will be faxed or emailed upon request.**

**As per the Maryland Real Estate Commission, you must be signed in and prepared when the class begins. If you arrive late or leave early, you will not get credit for the class. The Commission accepts no excuses at all.**

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## **MD Real Estate License Renewal Requirements**

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3. Topic C – Fair Housing Law – 1.5 clock hours
4. Topic H – MREC – Agency-Residential – 3 clock hours (once every 4 years)

*Brokers, Office Managers, Team Leader, Associate Brokers (if in a supervisory role)*  
Topic I – MREC Required Supervision Course – 3 clock hours (once every 4 years)

*Total Hour Requirements – 15 clock hours*

Effective October 1, 2008 requires licensees to retain documents for 5 years.

**Providers are now required to enter your completed CE class hours into the Maryland Real Estate Commission database which will now track your completed hours. When you renew your license, the database will search to match completed hours and required topics against your license number and if you have not completed the correct amount of hours, you will not be able to renew your license.**

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## **Maryland Association of REALTORS®**

### **ATTENTION MEMBERS—NEW REAL ESTATE LAWS:**

**MARYLAND REAL ESTATE LAWS TAKING EFFECT ON OR AFTER OCTOBER 1.** The laws affect dual agency, the return of deposit money, condos, and even landlord and tenant relations. For a quick summary, click the following: [New Laws](#)

**STIFFER LAWS FOR POSTING SIGNS ON HIGHWAYS** Although posting signs on state highway right-of-ways has been illegal for many years, a new law takes effect on October 1, 2011 that will create new enforcement tools. [READ NEW LAW](#)

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## **National Association of REALTORS®**

### **NAR Reissues Call for Action on Loan Limits**

AEs: FHA and conforming loan limits face expiration on September 30. Without congressional action, the limits will drop from 125 percent to 115 percent of the area median home price. That will impact more than 593 counties in 42 states. The loan-limit cap will also drop, from \$729,750 to \$625,500. Immediate action is critical, because lawmakers are scheduled to consider legislation with the loan limit extension this week. Share this link to the [REALTOR® Action Center](#) with your members for them to send a letter in just a couple of clicks.

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### **NAR Code of Ethics – Do you know the Articles?**

#### **Article 1**

Protect & Promote Your Client's Interests, But Be Honest With All Parties

**Article 2**

Avoid Exaggeration, Misrepresentation, and concealment of Pertinent Facts. Do Not Reveal Facts That Are Confidential Under The Scope Of Your Agency Relationship

**Article 3**

Cooperate With Other Real Estate Professionals To Advance Client's Best Interests

**Article 4**

When Buying Or Selling, Make Your Position In The Transaction Or Interest Known

**Article 5**

Disclose Present Or Contemplated Interest In Any Property To All Parties

**Article 6**

Avoid Side Deals Without Client's Informed Consent

**Article 7**

Accept Compensation From Only One Party, Except With Full Disclosure And Informed Consent

**Article 8**

Keep The Funds Of Clients And Customers In Escrow

**Article 9**

Assure, Whenever Possible, That Transactional Details Are In Writing

**Article 10**

Provide Equal Service To All Clients And Customers

**Article 11**

Be Knowledgeable And Competent In The Fields Of Practice In Which You Ordinarily Engage. Obtain Assistance Or Disclose Lack Of Experience When Necessary

**Article 12**

Present A True Picture In Your Advertising And Other Public Representations

**Article 13**

Do Not Engage In The Unauthorized Practice Of Law

**Article 14**

Be A Willing Participant In Code Enforcement Procedures

**Article 15**

Ensure That Your Comments About Other Real Estate Professionals Are Truthful, And Not Misleading

**Article 16**

Respect The Exclusive Representation Or Exclusive Brokerage Relationship Agreements That Other Realtors Have With Their Clients

**Article 17**

Arbitrate Contractual And Specific Non-Contractual Disputes With Other Realtors And With Your Clients

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that shows the GCBR Banner in the photo.  
Become a fan!**

# Garrett County Board of REALTORS®

GCBR News Briefs – November 1, 2011

## Membership Update

### New REALTOR® Members:

### New Affiliate Members:

Bill Whitmore – WCS Funding Group (Affiliate)  
4405 Leeds Ave  
Baltimore, MD 21229  
Telephone: 410-536-3601  
Email: [bill@happymortgage.com](mailto:bill@happymortgage.com)

### Drops:

W. Mark Watkins – Hot Shotz Thermal Imaging (Affiliate)

### Transfers:

Nancy Geisler – to Goodfellow Real Estate Services

### Changes:

Address Change: BB&T Bank  
Jerry Merrick  
233 East Alder Street, Suite A  
Oakland, MD 21550  
Fax: 301-334-1014

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## **2011-12 REALTOR® Dues are Due November 1, 2011**

NAR	\$ 155.00
MAR	\$170.00
GCBR	<u>\$347.00</u>
<b>Total</b>	<b>\$672.00</b>
Voluntary RPAC Contribution	<u>\$25.00</u>
<b>Total</b>	<b>\$697.00</b>

Dues invoices have been sent to all brokers for distribution and also sent to the membership through the GCBR List Serv for your convenience.

If you wish to pay your dues via VISA or MasterCard you may do so at the NAR website at [www.realtor.org](http://www.realtor.org) login and at the main menu, click on “Pay Dues” and follow the instructions.

**Dues not received at the Board office by November 30, 2011 will incur a 10% late fee.**

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## **Government Affairs Report, Paul Durham G.A.D.**

### **Marcellus Shale Gas Issue – State Commission to Meet Again in Garrett County on November 15:**

Governor O'Malley's Marcellus Shale Safe Drilling Initiative Advisory Commission is scheduled to meet again in Garrett County on Tuesday November 15 in the auditorium at Garrett College in McHenry. The meeting is currently scheduled to start at 1 p.m. and run until around 3:30 p.m.

According to reports, the meeting agenda will continue with a review of revenue and liability issues associated with shale gas drilling.

The meeting is open to the public.

### **DNR Reviewing Lake Regulations:**

Staff from the DNR lake management office have informed us that it is undertaking a comprehensive review of the Deep Creek Lake regulations. Retired DNR employee and former lake manager Mike Gregory has been brought back on staff to work on the project.

There is no report on when the work will be complete or available for public review.

### **PlanMaryland Update:**

The state has released "Version 2" of the statewide PlanMaryland document. Like that of many counties across the state, Garrett County's response continues to be one of concern, especially as it relates to how the plan would be implemented in rural jurisdictions. Many counties also view the plan as an effort by the state to usurp what has traditionally been the right of local jurisdictions to regulate zoning, growth and development.

GCBR will be developing comments on the plan utilizing a legal review provided by the law firm of Robinson and Cole through NAR's Land Use Initiative program. NAR had provided the brief to MAR which was then shared with local boards and associations for their review and use.

If PlanMaryland is adopted, it is clear that it forms the basis for additional restrictions from the state dealing with land use and development. Some of the recent legislative ideas, such as septic system restrictions and limits on the extent of rural subdivision have been folded into the plan.

The plan may be viewed on the web at: <http://plan.maryland.gov/>

MAR's comments on PlanMaryland can be found on the web at:

<http://www.mdrealtor.org/Portals/0/docs/GovernmentAffairs/MAR%20Letter.pdf>

### **County Commissioners Reject GCBR Proposal for a Shale Gas Lease Registry:**

Our Board voted at its October meeting to propose that the county create a shale gas lease registry in an effort to provide buyers and sellers of property the opportunity to secure recorded information about the existence of gas leases on or near properties for sale.

GCBR members are confronted with a disclosure challenge as the number of gas leases increases in the county and as buyers become more knowledgeable of the issue. While we can deal with disclosing gas leases on the listed property, without a title search it is almost impossible to determine whether gas leases exist on adjoining or nearby properties.

Our board's attorney advises us that initial gas leases should be recorded in the county land records. However, if the lease is subsequently transferred or assigned to a third party that information may not be readily available. Over time these conveyances may result in problem similar to dormant mineral rights, i.e. difficulty in determining who the leaseholder is.

The county commissioners met to consider our proposal and rejected the idea, stating that the costs of providing this as a county function would be astounding and that this should be a function of state government.

### **News from the Attorney General – Landowner Warning on Mineral Rights Leases:**



For Immediate Release

Media Contact:  
David Paulson, 410-576-6357  
[dpaulson@oag.state.md.us](mailto:dpaulson@oag.state.md.us)

#### ***Attorney General Douglas F. Gansler Warns Landowners: Before Signing a Mineral Rights Lease, Check Your Mortgage***

**Your bank/mortgage lender may need to approve the lease. Latest twist in Marcellus Shale gas leases could put homes and farms at risk**

**BALTIMORE, MD ( Oct. 20, 2011)** - Attorney General Douglas F. Gansler is warning landowners that signing a mineral rights lease could conflict with some requirements of their federally-approved home or farm mortgage. To ensure their homes and farms remain safe from legal entanglements, landowners should always check with their bank or mortgage lender before entering into a mineral rights lease.

"Marylanders need to protect themselves from unintentionally putting their homes and farms at risk," said Attorney General Gansler. "If a mineral rights lease is on the table, take it to your bank or mortgage lender first and have them sign off on it."

Landowners in Western Maryland, whose properties sit above the gas-rich Marcellus Shale formation, may be particularly vulnerable. High-pressure sales tactics and a lack of knowledge may lead a landowner to neglect checking with their mortgage lender to make

sure a mineral rights lease does not conflict with their mortgage. Over 90 percent of all mortgages in the United States are federally backed by government or government-sponsored entities such as the Federal Housing Administration (FHA), the Federal Agricultural Mortgage Corporation (Farmer Mac), the Federal Home Loan Mortgage Corporation (Freddie Mac), Veteran's Affairs (VA), the Rural Housing Service or Federal National Mortgage Association (Fannie Mae).

According to a [New York Times](#) article entitled "[Rush to Drill for Natural Gas Creates Conflicts With Mortgages](#)" published today, this little known and previously unexplored issue with mineral rights leases could be exploited by investors interested in shedding so-called "toxic" assets from their portfolios. In so doing, the investors may attempt to return any mortgage investment found to be in conflict with a mineral rights lease. Potentially, such mortgages could ultimately be returned to the original mortgage lender or local bank to be resolved with the landowner.

This warning to landowners is being issued as Maryland works to determine if permitting natural gas drill sites that use the extraction process known as hydrofracturing or "fracking" can be done without adverse impacts to public health, safety, the environment and natural resources. In June, Governor Martin O'Malley created the [Marcellus Shale Safe-drilling Initiative Advisory Commission](#) to study the risks and benefits of drilling for natural gas within the Marcellus Shale formation of Western Maryland over the next two years. The commission is being assisted by the Office of the Attorney General.

In the meantime, the Maryland Attorney General's Office created and distributed two landowner educational publications entitled, [Leasing Your Land for Natural Gas Drilling - Tips for the Landowner](#) and [Dormant Minerals Interest Act - Questions and Answers](#). A third publication addressing mineral-rights leases and mortgage issues is in development. That publication will address the risky and complex relationship between mineral rights leases and federally regulated mortgages, to include:

#### **How a mineral rights lease could breach the terms of an existing mortgage or affect the refinance or sale of property**

Most lenders/banks must follow the guidelines established by the major federal loan guarantors (Fannie Mae, Freddie Mac, Farmer Mac, FHA, etc...). Federal regulations and/or provisions of such mortgage contracts may prohibit:

- Transferring any interest (including mineral rights) in the property without the written consent of your bank or mortgage lender;
- Storage, use, disposal, discharge or release of environmentally hazardous substances, specifically gas, on the mortgaged property;
- Locating any existing dwelling within 300 feet of an active or planned drilling site boundary;
- In some cases, leasing surface or mineral rights located within 200 feet of a residential structure.

#### **Title Insurance issues**

Title insurance often contains the following restrictions that, if violated, would make it difficult to get title insurance and thus, difficult to get a mortgage or refinance:

- No structures exceeding 3 stories or 35 feet in height shall be erected on the

- premises;
- Premises shall not be used for storage of any material, machinery, equipment or supplies of any kind;
- Premises shall not be used for any commercial purpose of any kind.

Landowners who have questions may contact the Office of the Attorney General at 410-576-6300.

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Attorney General of Maryland 1 (888) 743-0023 toll-free / TDD: (410) 576-6372  
[Home](#) | [Site Map](#) | [Privacy Policy](#) | [Contact Us](#)

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## Maryland Association of REALTORS®

### FREE WEBINAR

SOCIAL MEDIA SUPER TIPS Friday, November 4, 2011 at 10AM--presented by Tech expert Matt Ferrara. [RESERVE YOUR SPOT NOW](#)

ROLE OF REAL ESTATE IN MARYLAND'S ECONOMY Don't miss valuable research provided by the Maryland Association of REALTORS from the Sage Policy Group.

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## National Association of REALTORS®

If you've heard the buzz about Realtors Property Resource, you may be wondering:

# What's RPR and how can it help me?

## So here's your quick guide.

The RPR robust national database, along with enhanced search and reporting capabilities, empowers REALTORS® anywhere in the country to provide detailed information to their clients and customers. The enhanced search features allows nationwide property searches, as well as market-to-market comparisons.

RPR is an NAR member benefit that will be available to all REALTORS®. RPR is 100% owned by you, directed by you, and operated for the benefit of NAR and its members. Only REALTORS® can access the information available in RPR—there is no consumer access.

RPR provides a detailed view of every parcel of property in the United States, including; public record and tax assessment information, details of prior transactions and sales history, zoning, permits, mortgage and lien data, FEMA flood maps, neighborhood and school district boundaries, as well as the largest database of foreclosure information by county in the industry. RPR merges MLS/CIE-provided information with this robust catalog of publicly available data, while also incorporating psychographic and lifestyle information, all in one place. Imagine a single-source national compilation of public information that provides all the facts on over 147 million U.S. residential and commercial properties, for the exclusive use of NAR's members. **That's RPR!**

RPR helps REALTORS® interpret information in its database, and produce valuable analytical reports for clients and customers. Report content is managed using tools to refine the value of a property. For example, by updating the facts or subjective analysis of a property, you can also show return on investment from a planned or existing home improvement project. REALTORS® can also create a personal library of market information. Analyzing listing, sales, and default unit and volume trends, along with pricing, mortgage, and valuation history, REALTORS® get a unique and comprehensive interpretation of the dynamics driving the market.

Because it's all in one place, RPR has the ability to enhance agent productivity. Search features yield nationwide property results, as well as local market-to-market comparisons. Market trends, unique maps, and robust reports are all readily available, but that's only scratching the surface. With its advanced reporting tools, RPR can enhance sales and listing presentations. An easily interpreted historical chart for each property layers years of transactions and financing activity, assessed value, loan balances and default recordings, along with other relevant trends and facts. Smart analytical tools like these, along with nationwide demographic comparisons, can help agents provide value to their clients.

REALTORS® can use RPR to create customized reports to share with clients and customers. Start by setting unique parameters to customize the report the way you want it, and even personalize its appearance with your personal brand. The Market Activity and Forecast Report provide all the details for your clients and customers, with special

features to focus on distressed property conditions and expectations for the future. Today's real estate markets change quickly. With RPR, REALTORS® can respond with confidence to consumers who demand increased access to detailed information. RPR will increase the breadth, depth, immediacy and power of real estate and it's a free member benefit, exclusive to the REALTOR® members of NAR.

Get more information and join the conversation at the RPR Blog:  
<http://blog.narrpr.com>

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## NAR Code of Ethics Case Studies

Case #2-3: Obligation to Disclose Defects (Revised Case #9-9 May, 1988. Transferred to Article 2 November, 1994.)

Seller A came to REALTOR® B's office explaining that his company was transferring him to another city and he wished to sell his home. In executing the listing contract, Seller A specified that the house had hardwood floors throughout and that the selling price would include the shutters and draperies that had been custom made for the house. Seller A said that he would like to continue to occupy the house for 90 days while his wife looked for another home at his new location, and agreed that REALTOR® B could show the house during this time without making a special appointment for each visit. Accordingly, REALTOR® B advertised the house, showed it to a number of prospective buyers, and obtained a purchase contract from Buyer C. Settlement was completed and at the expiration of the 90-day period from the date of listing. Seller A moved out and Buyer C moved in.

ON the day that Buyer C moved in, seeing the house for the first time in its unfurnished condition, he quickly observed that hardwood flooring existed only on the outer rim of the floor in each room that had been visible beyond the edges of rugs when he inspected the house, and that the areas that had been previously covered by rugs in each room were of subflooring material. He complained that REALTOR® B, the listing broker, had misrepresented the house in his advertisements and in the description included in his listing form which had specified "hardwood floors throughout." Buyer C complained to REALTOR® B, who immediately contacted Seller A. REALTOR® B pointed out that the house had been fully furnished when it was listed and Seller A has said that the house had hardwood floors throughout. Seller A acknowledged that he had so described the floors, but said the error was inadvertent since he had lived in the house for ten years since it had been custom built for him. He explained that in discussing the plans and specifications with the contractor who had built the house, the contractor had pointed out various methods of reducing construction costs, including limiting the use of hardwood flooring to the outer rim of each room's floor. Since Seller A had planned to use rugs in each room, he had agreed, and after ten years of living in the house with the subflooring covered by rugs, he had "simply forgotten about it."

REALTOR® B explained, however, that Seller A's description, which he had accepted, the resulted in misrepresentation to the buyer. "But it's a small point," said Seller A. "He'll probably use rugs too, so it really doesn't make any difference." After further pressure from REALTOR® B for some kind of adjustment for Buyer C, Seller A concluded, "It was an honest mistake. It's not important. I'm not going to do anything about it. If Buyer C thinks this is a serious matter, let him sue me."

REALTOR® B explained Seller A's attitude to Buyer C, saying that he regretted it very much, but under the circumstances could do nothing more about it. It was at this point that Buyer C filed a complaint with REALTOR® B Board.

At the hearing before a Hearing Panel of the Professional Standards Committee of REALTOR® B's Board, during which all of these facts were brought out, the panel found that REALTOR® B had acted in good faith in accepting Seller A's description of the property. While Article 2 prohibits concealment of pertinent facts, exaggeration, and misrepresentation. REALTOR® B had faithfully represented to Buyer C information given to him by Seller A. There were no obvious reasons to suspect that hardwood floors were not present throughout as Seller A had advised. REALTOR® B was found not in violation of Article 2.

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**Search for us with Garrett County Board of Realtors(r) and use the link  
that shows the GCBR Banner in the photo.**

**Become a fan!**

# Garrett County Board of REALTORS®

GCBR News Briefs – December 1, 2011

## Membership Update

### New REALTOR® Members:

### New Affiliate Members:

#### Drops:

John Macy – Long & Foster (Secondary Member)  
Linda McClean – Coldwell Banker Deep Creek Realty  
Nancy Beakes – Coldwell Banker Deep Creek Realty  
Charles “Skip” Case – Deep Creek Appraisal Associates  
Dave Nordeck – Deep Creek Appraisal Associates  
Bonnie Butler – Railey Realty  
Dawn Monahan – Railey Realty  
Tim Cosner – Garrett Land Sales  
Scott Sisler – Offlake Realty & Rentals  
Cathy Teets – Cathy Teets & Associates  
Melissa Pritt – Cathy Teets & Associates  
Shelia Jeffreys – Cathy Teets & Associates  
Cathy Teets & Associates - Office

### Transfers:

#### Changes:

Clear Mountain Bank has moved to its new location and has a new address:  
12730 Garrett Highway  
Oakland, MD 21550

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## **DUES**

Effective December 1, 2011, the 10% late fee will be added to any unpaid REALTOR® dues and the total amount due on or before December 31, 2011 is **\$706.70**

You can pay via credit card by logging on at [www.realtor.org](http://www.realtor.org) and click on “Pay Dues”

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## **Thank You For Helping Us Help the Children!**

### **“Heating Heads and Hands of Children of Garrett County”**

The GCBR Task Force wishes to thank all Realtors® who assisted in purchasing a new hats and gloves for the 2<sup>nd</sup> Annual drive. Task Force members assembled, bagged and labeled donations on December 1<sup>st</sup>. These items will be delivered to the Oakland Rotary

Club for distribution in their annual Christmas Project of delivering food and items to families in Garrett County.

\*\*\*\*\*

## Government Affairs Report, Paul Durham G.A.D.

### **Septic Legislation to Again Rear its Head in 2012:**

Media reports indicate that the legislative panel that has been reviewing the issue of restricting septic systems in the state has concluded its report to the governor and legislature. The panel is calling for a four-tiered approach that provides a general framework based on different local development goals.

We have contacted Delegate Beitzel to obtain a copy of the report. Press reports over the Thanksgiving weekend say that the first recommended tier covers areas where both local governments and the state have agreed they want sewer systems.

The second tier includes parts of the state where local governments have plans for future growth. The panel decided against capping the number of septic systems that would be allowed in developments in these areas.

The third tier includes land where there currently are no plans for growth or conservation. Some members of the panel argued that Maryland doesn't even have land that fits into that category, but the panel decided to include the category for a gray area of semi-growth in rural areas.

The fourth tier where septic systems would be sharply restricted includes areas that state and local governments have largely agreed to set aside for preservation, like county agricultural zones and conservation areas.

The operative language in these reports is "local governments and the state have agreed". MAR weighed in on this issue in the 2011 session. We can anticipate continued interest on their part going in to 2012.

### **GCBR Member Appointed to MAR Legislative Committee:**

We are pleased to report that outgoing GCBR President Larry Smith has been appointed to MAR's legislative committee. This gives GCBR a formal voice and vote in the proceedings that develop MAR positions on legislation.

As industrial development of wind and natural gas resources continues in Garrett County, we are now better positioned to help shape MAR policy on any related legislation that affects us locally.

Congratulations Larry!

### **PlanMaryland Update: postponed, heading for a Senate hearing**

The MD Department of Planning had originally intended to complete its work on PlanMaryland and deliver it to the Governor by November 30<sup>th</sup>. That timetable is now on hold as the Maryland Senate weighs in on the matter and plans to hold hearings in December.

Controversial aspects of PlanMaryland have generated a lot of vocal response from rural jurisdictions, with many counties and municipalities commenting negatively on the plan. On the local level, Garrett and Allegany Counties both issued strong statements against various parts of the plan.

The plan may be viewed on the web at: <http://plan.maryland.gov/>

MAR's comments on version #2 of PlanMaryland can be found after this report.

### **GCBR Proposal for a Shale Gas Lease Registry Forwarded to Gas Commission:**

After the County Commissioners rejected the idea of a local gas lease registry, our Board of Directors voted to forward the proposal on to the Marcellus Shale Gas Commission for consideration in their deliberations for statewide legislation in 2012.

We have received a few positive comments/feedback from certain commission members and the idea was a topic of discussion at the commission's November meeting. Our elected official seated on the Commission have, so far, been relatively silent on the matter during the Commission's deliberations

### **News from the Attorney General – Landowner Warning on Mineral Rights Leases:**



For Immediate Release

Media Contact:  
David Paulson, 410-576-6357  
[dpaulson@oag.state.md.us](mailto:dpaulson@oag.state.md.us)

#### ***Attorney General Douglas F. Gansler Warns Landowners: Before Signing a Mineral Rights Lease, Check Your Mortgage***

**Your bank/mortgage lender may need to approve the lease. Latest twist in Marcellus Shale gas leases could put homes and farms at risk**

**BALTIMORE, MD ( Oct. 20, 2011)** - Attorney General Douglas F. Gansler is warning landowners that signing a mineral rights lease could conflict with some requirements of their federally-approved home or farm mortgage. To ensure their homes and farms remain safe from legal entanglements, landowners should always check with their bank or mortgage lender before entering into a mineral rights lease.

"Marylanders need to protect themselves from unintentionally putting their homes and farms at risk," said Attorney General Gansler. "If a mineral rights lease is on the table, take it to your bank or mortgage lender first and have them sign off on it."

Landowners in Western Maryland, whose properties sit above the gas-rich Marcellus Shale

formation, may be particularly vulnerable. High-pressure sales tactics and a lack of knowledge may lead a landowner to neglect checking with their mortgage lender to make sure a mineral rights lease does not conflict with their mortgage. Over 90 percent of all mortgages in the United States are federally backed by government or government-sponsored entities such as the Federal Housing Administration (FHA), the Federal Agricultural Mortgage Corporation (Farmer Mac), the Federal Home Loan Mortgage Corporation (Freddie Mac), Veteran's Affairs (VA), the Rural Housing Service or Federal National Mortgage Association (Fannie Mae).

According to a [New York Times](#) article entitled "[Rush to Drill for Natural Gas Creates Conflicts With Mortgages](#)" published today, this little known and previously unexplored issue with mineral rights leases could be exploited by investors interested in shedding so-called "toxic" assets from their portfolios. In so doing, the investors may attempt to return any mortgage investment found to be in conflict with a mineral rights lease. Potentially, such mortgages could ultimately be returned to the original mortgage lender or local bank to be resolved with the landowner.

This warning to landowners is being issued as Maryland works to determine if permitting natural gas drill sites that use the extraction process known as hydrofracturing or "fracking" can be done without adverse impacts to public health, safety, the environment and natural resources. In June, Governor Martin O'Malley created the [Marcellus Shale Safe-drilling Initiative Advisory Commission](#) to study the risks and benefits of drilling for natural gas within the Marcellus Shale formation of Western Maryland over the next two years. The commission is being assisted by the Office of the Attorney General.

In the meantime, the Maryland Attorney General's Office created and distributed two landowner educational publications entitled, [Leasing Your Land for Natural Gas Drilling - Tips for the Landowner](#) and [Dormant Minerals Interest Act - Questions and Answers](#). A third publication addressing mineral-rights leases and mortgage issues is in development. That publication will address the risky and complex relationship between mineral rights leases and federally regulated mortgages, to include:

#### **How a mineral rights lease could breach the terms of an existing mortgage or affect the refinance or sale of property**

Most lenders/banks must follow the guidelines established by the major federal loan guarantors (Fannie Mae, Freddie Mac, Farmer Mac, FHA, etc...). Federal regulations and/or provisions of such mortgage contracts may prohibit:

- Transferring any interest (including mineral rights) in the property without the written consent of your bank or mortgage lender;
- Storage, use, disposal, discharge or release of environmentally hazardous substances, specifically gas, on the mortgaged property;
- Locating any existing dwelling within 300 feet of an active or planned drilling site boundary;
- In some cases, leasing surface or mineral rights located within 200 feet of a residential structure.

#### **Title Insurance issues**

Title insurance often contains the following restrictions that, if violated, would make it

difficult to get title insurance and thus, difficult to get a mortgage or refinance:

- No structures exceeding 3 stories or 35 feet in height shall be erected on the premises;
- Premises shall not be used for storage of any material, machinery, equipment or supplies of any kind;
- Premises shall not be used for any commercial purpose of any kind.

Landowners who have questions may contact the Office of the Attorney General at 410-576-6300.



November 9, 2011

The Honorable Richard Hall  
Secretary  
Maryland Department of Planning  
301 West Preston Street  
Baltimore, Maryland 21201-2365

Dear Secretary Hall,

The Maryland Association of REALTORS® (MAR) offers the following comments to the PlanMaryland revisions. This letter is in addition to a more general letter we forwarded the Department in August. We appreciate your continued effort to seek input on this ambitious plan.

While MAR believes the revisions more clearly set out how PlanMaryland functions with the Twelve Visions already established in law, the Department's statutory authority, and local government's authority in growth planning, MAR remains extremely concerned over the following PlanMaryland provisions. For purposes of our comments, the numbers in parentheses reference the page number of the particular PlanMaryland language being discussed.

**1. MAR Remains Concerned that PlanMaryland will Undermine Local Growth**

**Control:** Although the plan specifies throughout that it is not intended to replace or usurp local planning authority, MAR is concerned that local growth decisions will be significantly affected.

- PlanMaryland sets forth that "State Implementation Strategies will be the principal driving force for implementation of PlanMaryland" (5-4). It also establishes that the State Implementation Strategies will focus on state capital and non-capital budgeting, licenses/permits, loans, grants, regulatory procedures and even technical assistance (5-2). Accordingly, a local government could approve a growth area that does not meet PlanMaryland criteria, but the State would have de facto veto power over the project if the project depended on any state permits, loans, funding, and technical assistance. Few if any development projects today can avoid such state interaction. Moreover, the Plan establishes that these are not the only items which the State could use to implement PlanMaryland. So, other criteria (as yet to be determined) could be used to stop a local growth decision.
- In Chapter 3, PlanMaryland also lays out the goals and objectives that will be used to measure conformance with PlanMaryland. Under the framework set out, it appears that state decisions to fund projects, approve permits etc. will be

based on whether projects meet the standards established here. Again, because few development projects can proceed without state interaction of some kind, those locally approved projects that do not meet the objectives could be stopped by the State even if the local had funding to proceed.

- While some of the objectives/benchmarks are yet to be determined, at least one for “concentrated development” could undermine the approval of many locally approved plans. That benchmark states that 90% of the new dwelling units be located in Priority Funding Areas in the next 20 years (3-3). However, PlanMaryland stated earlier that 84% of the development now occurs outside of those areas (2-2). Such a significant change will likely impact many localities.
  - PlanMaryland states that one of the objectives for concentrated growth is to focus on redevelopment first (3-4). It is unclear how this objective would be implemented. Would the state refuse to issue a permit for a project on new land until all redevelopment capacity was used? MAR would have significant concerns over such an inflexible policy.
  - In that same objective for concentrated growth, PlanMaryland also clarifies that revitalization that displaces low-income residents is not favored. However, many revitalization projects (affecting residential property) are subjected to charges of displacing low-income residents. MAR would certainly want to ensure low-income residents are treated fairly, but it would be easy to make that allegation against such projects. If that occurs, will the State deny permits?
  - Although Chapter 4 specifies that local governments will participate in defining the Designated Places within the plan, it also states that “a State agency itself may nominate” a special area in certain circumstances (4-13) without local government input.
2. **No Certainty for Reaching Growth/Density Capacity:** As stated in our first comment letter, MAR is also concerned that as constructed PlanMaryland has more control dictating where growth cannot happen, but not as much control ensuring that growth occurs where planned in order to meet population and job growth.
- The Plan mentions that more study is needed on the impact of denser development but mentions that denser development would save infrastructure costs like new roads (2-20). However, redevelopment costs can be even more costly than new infrastructure on new land. Costs such as condemnation, retrofitting of water and wastewater infrastructure, retrofitting stormwater, and expanding school capacity can easily exceed the costs of development on new land.

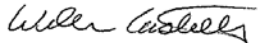
- The Plan notes the importance of creating a business friendly environment, including streamlined decision making (3-9) which MAR agrees is important. However, those decisions are not controlled by the State alone. Local governments will have as much authority in that process as the State.
  - The Plan lists in Chapter 2 many of the other factors that influence growth beyond comprehensive plans and zoning and permitting decisions. MAR agrees that the demographic factors mentioned in Chapter 2 along with other factors such as crime, school performance, Adequate Public Facilities Ordinances (APFO) and other general “quality of life” issues may have as much influence on growth as growth plans. As a result, MAR is very concerned that efforts to redirect growth can unintentionally stop growth because new growth areas fail to attract planned densities for reasons unrelated to PlanMaryland.
  - MAR believes PlanMaryland should more clearly acknowledge the need to maintain an adequate capacity of developable land to accommodate projected demand in a timely manner. Redevelopment can be costly and time consuming and make many projects unworkable. How much of the future growth in Maryland does the state realistically expect to be achieved through redevelopment?
3. **PlanMaryland Provisions that are Unclear:** MAR appreciates that elements of PlanMaryland are undefined or are unclear because the Plan is intended to seek additional input as it develops. However, the lack of clarity makes certain provisions of the Plan difficult to judge.
- As referenced briefly above, some of the objectives/benchmarks for measuring the success of this plan are yet undetermined. MAR applauds the Plan’s efforts to set housing affordability as one objective, but the plan has yet to determine how that will be measured (3-9). In addition, some of the barriers to affordable housing are rooted in mandates placed on housing. Chapter 3 envisions a number of objectives (expanded transportation options; improved access to job training opportunities) that could add cost to homes by adding costs to development.
  - Also in Chapter 3, MAR is unclear how localities will meet objectives that seem obscure and more tangential to the development process such as: access to locally produced and nutritious foods (3-9); balanced economy (3-9); protecting against invasive species, pests and diseases (3-7).
  - The Plan sets out a process for establishing designated places, but indicates that local governments do not have to participate in such designation (4-10) and that state agencies will prepare a report that will, in part, “determine how the Place and Special Area designations could be used” (4-11). The fact that the Smart Growth Subcabinet will determine much of this raises questions about how that process occurs. It does not appear to be a regulatory process, but rather a more

informal process. MAR believes it should be a more formal process perhaps even subject to the rulemaking process.

- The Plan mentions that State Agencies will take individually the lead on how State Implementation Strategies are executed (5-1). Not only is it unclear how each State Agency will do this, but it is also unclear whether each State Agency will do this differently thereby creating unintended confusion (MAR recognizes that Chapter 6 mentions inter-agency guidance, but it does not clarify how closely agencies will have to follow that guidance).
- The Plan established guidelines for the implementation strategies including the directive to "ensure wise and sound public investments" with 0-4 feet of the mean sea level (the sea level rise inundation). MAR is unclear whether these guidelines are strict prohibitions, whether the agencies will use them differently (see bullet above), and generally how they will be applied.

MAR appreciates the difficulty in creating a manageable growth plan for a state that is already significantly developed and densely populated. However, MAR is concerned that giving state agencies a mandate to enforce growth policies through funding and permitting can lead to unintended results such as supply and demand imbalances that can by themselves create extraordinary problems for housing affordability and job growth.

Sincerely,



William Castelli  
Vice President of Government Affairs

200 Harry S Truman Parkway – Suite 200 • Annapolis, Maryland 21401-7348  
800-638-6425 • Fax: 443-716-3510 • [www.mdrealtor.org](http://www.mdrealtor.org)



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## [2011 Continuing Education Schedule](#)

Photo ID Required at Sign-In

**Required courses will be indicated in red.**

**There must be a minimum of 10 students registered for classes to be held.**

**Wed. Dec. 14, 2011 9:00 – 12:00 “Ethics/Predatory Lending (D)”**

**Wed. Jan. 11, 2012 9:00 – 12:00 “MREC – Agency Residential” (H)**

**Wed. Jan. 18, 2012 9:00 – 12:00 “Contracts” (F)**

**Wed. Feb. 15, 2012 9:00 – 12:00 “MD Legal Update” (A)**

**Wed. Feb. 22, 2012 10:00 – 11:30 “Garrett Co. Real Estate – Zoning, Ordinances & Beyond (F)”**

**Wed. Mar. 14, 2012 10:00 – 11:30 “Fair Housing” (C)**

**Wed. Mar. 28, 2012 10:00 – 11:30 “Part 2 Garrett C. Real Estate – Zoning, Ordinances & Beyond” (F)**

**Wed. Apr. 11, 2012 9:00 – 12:00 “MD Code of Ethics/Predatory Lending” (D)**

**Wed. Apr. 18, 2012 10:00 – 11:30 “Risk Management” (F)**

**Cost: 1.5 hours \$20.00 (Realtor®)      \$30.00 (non-Realtor®)  
3.0 hours \$30.00 (Realtor®)      \$40.00 (non-Realtor®)**

**Registration flyers will be faxed or emailed upon request.**

**As per the Maryland Real Estate Commission, you must be signed in and prepared when the class begins. If you arrive late or leave early, you will not get credit for the class. The Commission accepts no excuses at all.**

**Note: There is a \$5.00 charge for any continuing education certificates that have to be reissued.**

## **MD Real Estate License Renewal Requirements**

### ***Required Topics for ALL Licensees***

1. Topic D – Ethics and Predatory Lending – 3 clock hours
2. Topic A – Federal, state or local legislative issues – 3 clock hours
3. Topic C – Fair Housing Law – 1.5 clock hours
4. Topic H – MREC – Agency-Residential – 3 clock hours (once every 4 years)

### ***Brokers, Office Managers, Team Leader, Associate Brokers (if in a supervisory role)***

**Topic I – MREC Supervision – Brokers, Branch Office Managers, Team Leaders – 3 clock hours (once every 4 years)**

### **Total Hour Requirements – 15 clock hours**

Effective October 1, 2008 requires licensees to retain documents for 5 years.

**Education Providers are now required to enter your completed CE class hours into the Maryland Real Estate Commission database which will now track your completed hours. When you renew your license, the database will search to match completed hours and required topics against your license number and if you have not completed the correct amount of hours, you will not be able to renew your license.**

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## **Maryland Association of REALTORS®**

### **The Maryland Court of Appeals Declares the Provisions of the Reduction of Lead Risk in Housing Act Immunizing Landlords from Lead-Paint Liability Unconstitutional**

#### **Brief Analysis of the Case**

On October 24, 2011, in the case of *Jackson v. Dackman Co. et al.* (Md. App., 2011), the Court of Appeals of Maryland held that the immunity provisions of the Reduction of Lead Risk in Housing Act ("the Act"), which provide compliant landlords with qualified immunity from tort liability under specified circumstances, violate Article 19 of the Maryland Declaration of Rights ("Article 19").

Article 19 generally protects two related rights: (1) a right to a remedy for an injury to one's person or property and (2) a right of access to the courts. The Court interpreted Article 19 to prohibit *unreasonable* restrictions on traditional remedies or access to the courts.

The Court concluded that the substituted remedy under the Act for a child permanently brain damaged due to the child's ingestion of lead-based paint in the rental property was totally inadequate and unreasonable to ameliorate the harm done. The Court also held that the unconstitutional provisions of the Act could be severed from the remainder of the Act leaving all other provisions unchanged.

#### **Relevant Terms of the Reduction of Lead Risk in Housing Act**

The Act defines the term "owner" to mean a person, firm, corporation, guardian, conservator, receiver trustee, executor or legal representative who, alone or jointly or severally with others, owns, holds, or controls the whole or any part of the freehold or leasehold interest to any property, with or without actual possession. The Act specifies that the term "owner" includes any vendee in possession of the property and any authorized agent of the "owner," including, a property manager or leasing agent. An "affected property" means a property constructed before 1950 that contains at least one rental dwelling unit or any residential rental property for which the owner elects to comply with the Act. The term includes an individual dwelling unit within a multi-family rental dwelling. The Act defines a "person at risk" to mean a child or a pregnant woman who resides or regularly spends at least 24 hours per week in an affected property.

#### **Impact of the Court's Decision**

The impact of the Court's decision is that owners, authorized agents of owners and property managers are at an increased risk for liability resulting from an alleged injury or loss caused by the ingestion of lead by a person at risk. In other words, an affected person may sue an *owner* for an injury or loss and recover an amount exceeding \$17,000 which was the maximum amount payable under the Act and is no longer applicable.

## Risk

## Reduction

The Maryland Department of the Environment ("MDE") issued a notice stating that the Lead Poisoning Prevention Program was not impacted by the ruling. Therefore, all laws requiring property owners to register pre-1950 properties and obtain lead inspection certificates remain in effect. The MDE intends to continue the regulatory program.

Property owners should continue to comply with all of the requirements of the Act. Property owners who "opt-in" to the program can continue to do so. **As with pre-1950 properties, qualified immunity from tort liability no longer exists.** Continuance of registration and performance of the risk reduction activities at each change in occupancy may assist in the demonstration of due care on the part of the property owner. **Owners, authorized agents and property managers dealing with affected properties are urged to consult with their attorney to determine the appropriate course of action.**

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## National Association of REALTORS® Member Benefit



**CHRYSLER** Chrysler is the Official Automobile Manufacturer  
of the NATIONAL ASSOCIATION OF REALTORS®.

NAR and Chrysler have partnered to offer members a \$500 cash allowance on the purchase or lease of select 2012 Chrysler, Dodge, Jeep and Ram models<sup>1</sup>. Plus, all REALTORS® meet Chrysler's requirements for their "On the Job" Program and will receive at no charge a two-year service agreement that includes eight oil changes (including diesel), lube and filter—with their purchase or lease.<sup>2</sup>

The \$500 cash allowance is available to NAR members and staff at the national, state and local associations or boards of REALTORS®, and immediate family members living in the same household and may be used in addition to other Chrysler retail incentives and special offers.

When you're ready to make a purchase or lease, read through and follow the three steps below to ensure you'll get these great benefits:

1. Make sure you have a copy of the proper proof of NAR membership or employee status (full details for REALTORS® and STAFF appear below.)
2. At the dealership, negotiate the best price with the dealer, **before** you mention your NAR allowance. The cash allowance is over and above what you have negotiated with the dealer.

3. Inform them of your NAR membership or employment status and reference applicable program codes noted below.

The dealer will then ask for validation of membership or employment status. Please review the details below for additional, pertinent instructions. Members **must** provide a current copy of their membership card in order to receive this benefit, as well as the unique code specified below.

### **Before You Visit Your Local Chrysler Dealer**

#### **REALTORS®:**

1. Make sure you have a copy of your current-year NAR membership card. The dealer will request a copy of the card.  
**To Obtain a Copy of Your Card:**  
Visit NAR's online [Member Guide](#), log in, and print off a copy of your NAR membership card to present to the dealer.  
**Please note:** You must have your NRDS ID number available to log in to the member guide. If you do not know your NRDS number, you may find it by clicking the "Look it up now to get started" link located on the home page of the member guide.
2. Reference Chrysler program number for members: **38CCY1** and the "On-the-Job" program number: **38CCE** (for gas) or **38CCF** (for diesel) to obtain the two-year oil, lube and filter service contract. **Remember:** this offer is available exclusively for REALTORS®.

#### **Staff of National, State and Local Associations/Boards of REALTORS®:**

1. You must provide an original document of your current pay stub, W2 or work photo ID badge - showing the name of your association/board. The dealer has access to the list of associations by state and can verify the name of your association or board. This information is also available [online](#).
2. Reference Chrysler program number for staff: **38CCY2**.

#### **Procedure for FAMILY MEMBERS living in the same residence as a REALTOR® or Staff member:**

REALTORS®/Staff must follow the validation instructions above first, as evidence that they are eligible for this program. Then, they must accompany the family member to the dealership at the time of purchase or lease. The family member must bring a valid driver's license or other original documentation showing they live at the same address.

## Questions About the Program?

All program details are available from your local Chrysler dealer.

## To Obtain a Copy of Your Membership Card

To print a copy of your card, visit NAR's online member guide (<http://memberguide.realtor.org>), log on and print off a copy of your NAR membership card to present to the dealer.

<sup>1</sup> As of 11/1/11, current vehicle models exclude Wrangler, Patriot, Caliber, Compass, All SRTs, Light Duty Ram trucks (base model only), All Ram Heavy Duty and C/V trucks, all FIAT brand vehicles and the Chrysler 200 LX. Check with your dealer for complete list of vehicles included in this offer.

<sup>2</sup> The "On the Job" service contract is available only to REALTORS®.

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## NAR Code of Ethics Case Studies

### **Case #1-10: Obligations Under Exclusive Listing (Originally Case #7-12. Reaffirmed May, 1988. Transferred to Article 1 November, 1994. Revised November, 2001.)**

At the time Client A signed an exclusive listing agreement with REALTOR® B, they discussed market conditions and prevailing prices, and agreed on listing at \$156,900. After six weeks with no apparent interest in the house. Client A called REALTOR® B to learn why his property was receiving scant attention from prospective buyers. REALTOR® B said, "It's not hard to diagnose the trouble. Your property is overpriced. That was clear to me by the time we had it listed for ten days. In this market, it would take a really interested buyer to go as high as \$149,000 for it. That's why it hasn't been possible for us to push it. "When you reached that conclusion, why didn't you tell me?" asked Client A "Because," said REALTOR® B, it wouldn't have done any good. I know from experience that sellers can't be convinced that they are overpricing their property until they get tired of waiting for an offer that will never come. Now that the market has taught you something that you would not take as advice, let's reduce the price to \$148,900 and push it."

Client A complained about REALTOR® B to the Board of REALTORS®, detailing these circumstances, strongly insisting the REALTOR® B had fully agreed with him on the price at which the property was originally listed.

Client A reiterated this point strongly at the hearing of his complaint which was held before a Hearing Panel of the Board's Professional Standards Committee. REALTOR® B did not contest this, taking the position that at the time of the listing it was his judgment that a price of \$156,900 was fair and obtainable in the market. He stated that a strong immediate sales effort had convinced him that the listed price was excessive, and

he defended his action of reducing his sales effort as he had done in his discussion with the client. He said that many years of experience as a broker had convinced him that once a seller decides on a definite price for his property, no argument or analysis will shake his insistence on getting that price; that only inaction in the market is convincing to the sellers.

The Hearing Panel concluded that REALTOR® B's conduct had violated Article 1 of the Code of Ethics, which requires REALTORS® to protect and promote their clients' interests. The panel also found that since REALTOR® B honestly felt the original listing price of \$156,900 was the fair market value at the time he listed it, REALTOR® B had not violated the Code of Ethics by suggesting that the price be lowered. However, since REALTOR® B later concluded the property was overpriced, he should have immediately notified Client A of his conclusion and not waited for Client A to call him six weeks later.

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**Check us next time on FaceBook!**

**Search for us with Garrett County Board of Realtors(r) and use the link  
that shows the GCBR Banner in the photo.  
Become a fan!**

**Happy Holidays!**